



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

Subscriptions and Distribution	Telephone:	(515)281-3568
	Fax:	(515)281-8027
KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor	Fax:	(515)281-8157 (515)281-4424

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Iowa Administrative Bulletin

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Legislative Services Agency
Miller Building
Des Moines, IA 50319
Telephone: (515)281-6766**

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

- | | |
|-----------------------|----------------|
| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1(249A) | (Rule) |
| 441 IAC 79.1(1) | (Subrule) |
| 441 IAC 79.1(1)“a” | (Paragraph) |
| 441 IAC 79.1(1)“a”(1) | (Subparagraph) |

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan. 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
Dec. 27	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 14, 2005	January 4, 2006
15	Friday, December 30, 2005	January 18, 2006
16	Friday, January 13, 2006	February 1, 2006

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.west@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ADMINISTRATIVE SERVICES DEPARTMENT[11]		
Information technology governance, adopt ch 20; 25.1, 25.2, 25.5, 25.7, 105.2, 105.10 IAB 11/23/05 ARC 4691B	Conference Room 04, Level A South Hoover State Office Bldg. Des Moines, Iowa	December 13, 2005 11 a.m.
ARTS DIVISION[222]		
Public access to council programs, rescind chs 1, 2, 5 to 13, 18, 20, 23; adopt chs 1 to 5, 9, 12, 13 IAB 11/23/05 ARC 4696B	Tone Board Room Third Floor West Historical Bldg. Des Moines, Iowa	December 13, 2005 10 a.m.
CREDIT UNION DIVISION[189]		
Satellite terminals, 24.5(1), 24.6 IAB 11/23/05 ARC 4672B	Division Conference Room, Suite 370 200 E. Grand Des Moines, Iowa	December 13, 2005 10 a.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Teacher librarian, 14.140(8) to 14.140(10) IAB 12/7/05 ARC 4721B	Room 3 North Third Floor Grimes State Office Bldg. Des Moines, Iowa	December 29, 2005 1 p.m.
EDUCATION DEPARTMENT[281]		
Extracurricular interscholastic competition, 36.1, 36.4, 36.14 to 36.16 IAB 12/7/05 ARC 4731B (ICN Network)	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 11 and 26, 2006 1 p.m.
	Keystone AEA 1 1400 Second St. NW Elkader, Iowa	January 11 and 26, 2006 1 p.m.
	Room 106, Charles City Center North Iowa Area Comm. College 200 Harwood Dr. Charles City, Iowa	January 11 and 26, 2006 1 p.m.
	Room 22, Library Bldg. Iowa Lakes Community College 300 S. 18th St. Estherville, Iowa	January 11 and 26, 2006 1 p.m.
	Room 13, Attendance Center. Iowa Lakes Community College 2111 Hwy. 169 North Algona, Iowa	January 11 and 26, 2006 1 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)
(ICN Network)

Fiber Optic Rm. 118, Attendance Ctr. Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	January 11 and 26, 2006 1 p.m.
Room 818, Smith Wellness Center Iowa Lakes Community College 3200 College Dr. Emmetsburg, Iowa	January 11 and 26, 2006 1 p.m.
Reg Johnson Hall 105 Ellsworth Community College 1100 College Ave. Iowa Falls, Iowa	January 11 and 26, 2006 1 p.m.
Room 806, Continuing Ed. Center Iowa Valley Community College 3702 S. Center St. Marshalltown, Iowa	January 11 and 26, 2006 1 p.m.
Room 110, Tama Hall Hawkeye Comm. College 1501 E. Orange Rd. Waterloo, Iowa	January 11 and 26, 2006 1 p.m.
Room N147, Lagomarcino Hall Iowa State University Ames, Iowa	January 11 and 26, 2006 1 p.m.
Room 105, Larson Hall Clinton Comm. College 1000 Lincoln Blvd. Clinton, Iowa	January 11 and 26, 2006 1 p.m.
Room 60, Muscatine Comm. College 152 Colorado St. Muscatine, Iowa	January 11 and 26, 2006 1 p.m.
Room 210, Scott Comm. College 500 Belmont Rd. Bettendorf, Iowa	January 11 and 26, 2006 1 p.m.
Room 116, Red Oak Center Southwestern Comm. College 2300 N. Fourth St. Red Oak, Iowa	January 11 and 26, 2006 1 p.m.
Room 2, Conference Center NE Iowa Comm. College 10250 Sundown Rd. Peosta, Iowa	January 11 and 26, 2006 1 p.m.
Room 128, Careers Bldg., NIACC 500 College Dr. Mason City, Iowa	January 11 and 26, 2006 1 p.m.
Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	January 11 and 26, 2006 1 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)
(ICN Network)

Room 100, Preus Bldg. Luther College 700 College Dr. Decorah, Iowa	January 11 and 26, 2006 1 p.m.
Lib. 204, Prairie Lakes AEA 8 330 Avenue M Fort Dodge, Iowa	January 11 and 26, 2006 1 p.m.
Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	January 11 and 26, 2006 1 p.m.
Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa	January 11 and 26, 2006 1 p.m.
Looft Hall, Iowa Western Comm. Coll. 2700 College Rd. Council Bluffs, Iowa	January 11 and 26, 2006 1 p.m.
Iowa City Comm. School Dist. 509 S. Dubuque St. Iowa City, Iowa	January 11 and 26, 2006 1 p.m.
Room CV15B, Indian Hills Comm. Coll. North First St. Centerville, Iowa	January 11 and 26, 2006 1 p.m.
Room 410, Bldg. D Northwest Iowa Community. College 603 West Park St. Sheldon, Iowa	January 11 and 26, 2006 1 p.m.
Iowa Lakes Community College 2008 Hill Ave. Spirit Lake, Iowa	January 11 and 26, 2006 1 p.m.
AG Room 331 Southeastern Community College 1500 W. Agency West Burlington, Iowa	January 11 and 26, 2006 1 p.m.
Room 7B, Information Tech. Center Buena Vista University 610 W. Fourth St. Storm Lake, Iowa	January 11 and 26, 2006 1 p.m.
AEA 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	January 11 and 26, 2006 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air pollution—equipment and processes for which construction permits are not required, 20.2, 22.1(2) IAB 11/9/05 ARC 4651B	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	December 12, 2005 1 p.m.
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NATURAL RESOURCE COMMISSION[571]

Nonresident deer hunting, 94.1, 94.6 to 94.8 IAB 12/7/05 ARC 4715B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 2006 10:30 a.m.
Nuisance wildlife control, ch 114 IAB 12/7/05 ARC 4716B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 11, 2006 11:30 a.m.

PROFESSIONAL LICENSURE DIVISION[645]

Barbers, 21.16(3), 25.2(26), 26.1 IAB 11/23/05 ARC 4670B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	December 13, 2005 9:30 to 10 a.m.
Cosmetology arts and sciences examiners, amendments to chs 60, 61, 63 to 65 IAB 12/7/05 ARC 4704B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 3, 2006 1 to 1:30 p.m.
Cosmetology arts and sciences examiners—competency examination, 65.6 IAB 11/23/05 ARC 4684B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	December 23, 2005 1 to 1:30 p.m.
Psychologists, 240.2(1), 242.5 IAB 12/7/05 ARC 4699B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 3, 2006 9:30 to 10 a.m.
Social workers—competency examination, 283.5 IAB 12/7/05 ARC 4702B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 3, 2006 10:30 to 11 a.m.
Speech pathologists and audiologists— competency examination, 304.5 IAB 11/23/05 ARC 4694B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 3, 2006 9 to 9:30 a.m.

PUBLIC HEALTH DEPARTMENT[641]

Volunteer health care provider program, amendments to ch 88 IAB 12/7/05 ARC 4701B	Room 517, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	December 27, 2005 1 to 2 p.m.
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SCHOOL BUDGET REVIEW COMMITTEE[289]

Use of generally accepted accounting principles, 6.5 IAB 12/7/05 ARC 4723B (ICN Network)	Second Floor ICN Room Grimes State Office Bldg. Des Moines, Iowa	January 5, 2006 1 p.m.
	Keystone AEA 1 1400 Second St. NW Elkader, Iowa	January 5, 2006 1 p.m.
	AEA 4 1382 Fourth Ave. NE Sioux Center, Iowa	January 5, 2006 1 p.m.
	Room 101, Emerson Bldg. 316 N. Third St. Eagle Grove, Iowa	January 5, 2006 1 p.m.

SCHOOL BUDGET REVIEW COMMITTEE[289] (Cont'd)
(ICN Network)

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Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	January 5, 2006 1 p.m.
Prairie Lakes AEA 8 Hwy. 18 and Second St. Cylinder, Iowa	January 5, 2006 1 p.m.
State Room, AEA 267 91848 265th St. Clear Lake, Iowa	January 5, 2006 1 p.m.
Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	January 5, 2006 1 p.m.
High School 421 Terrace Dr. Burlington, Iowa	January 5, 2006 1 p.m.
Indian Hills Community Coll., #3 651 Indian Hills Dr. Ottumwa, Iowa	January 5, 2006 1 p.m.
R.M. Wolfe Education Center Iowa Valley Community College 3405 S. Center St. Marshalltown, Iowa	January 5, 2006 1 p.m.
Louisa Room, Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	January 5, 2006 1 p.m.
Room 223, West High School 2001 Casselman Sioux City, Iowa	January 5, 2006 1 p.m.
Room 32B Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	January 5, 2006 1 p.m.

SOIL CONSERVATION DIVISION[27]

Conservation practices revolving loan fund, amendments to ch 11 IAB 12/7/05 ARC 4728B (See also ARC 4729B herein)	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 10, 2006 2 p.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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AGENCY	PROGRAM	SERVICE DELIVERY AREA	ELIGIBLE APPLICANTS	TYPES OF PROJECTS	E-Grant Application DUE DATE
<p>Iowa Homeland Security and Emergency Management Division (HLSEM)</p>	<p>Pre-Disaster Mitigation Competitive (PDM) Grant for Fiscal Year (FY) 2006 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)</p>	<p>Within the State of Iowa</p>	<ul style="list-style-type: none"> • Other State Agencies and Local Governments • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, Authorized Tribal Organizations, and Alaska Native villages • Private non-profit organizations are not eligible to apply as sub-applicants; however, they may request a local government to submit an application for their proposed activity on their behalf. • All applicants and sub-applicants must be participating in the NFIP if they have been identified through the NFIP as having a Special Flood Hazard Area (SFHA) (a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) has been issued. The Community must not be on probation, suspended or withdrawn from the NFIP. <p>To learn more about the PDM program, use the following link on HLSEM's website: http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/2006PDM.asp</p> <p>Applicants must complete an application through the Electronic Grant (e-Grants) System. To learn more about the e-grant system use the following link on HLSEM's website: http://www.iowahomelandsecurity.org/asp/CoEM_FR/grant/Egrants.asp</p> <p>For additional information please contact: John Wageman 515-281-7125 Linda Roose 515-281-6612 Dennis Harper 515-281-6477</p> <p>Iowa Homeland Security and Emergency Management Division Des Moines, Iowa 50319-0113</p>	<p>Eligible Project Types</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity; • Construction of safe rooms (tornado and severe wind shelters); • Structural and non-structural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, floodproofing, storm shutters, hurricane clips); • Minor structural hazard control or protection projects that may include vegetation management, stormwater management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization; and • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system. <p>Planning Activities:</p> <p>Eligibility for a project grant is dependent on the Sub-applicant having a FEMA approved hazard mitigation plan (deadline is April 14, 2006).</p> <p>The outcome of a mitigation planning sub-grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA approved hazard mitigation plan.</p>	<p>January 8, 2006</p>

ARC 4722B**COLLEGE STUDENT AID
COMMISSION[283]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission proposes to amend Chapter 14, “Osteopathic Physician Recruitment Program,” Iowa Administrative Code.

The proposed amendments increase the maximum state-funded loan repayment award from up to \$40,000 to up to \$50,000 and are intended to help communities with limited resources recruit and retain qualified physicians in medical areas that meet the needs of the community. These amendments increase maximum awards to maintain a balance in the annual after-tax benefits that have developed as tuition scholarships have increased with tuition charges and increases in student loan borrowing. In addition, these amendments remove the primary care practice requirement allowing community officials to determine the medical specialties most needed in the communities and an opportunity to recruit qualified medical professionals to these communities.

Interested persons may submit comments orally or in writing by 4:30 p.m. on December 27, 2005, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515) 242-3344.

These amendments are intended to implement Iowa Code section 17A.3(1)“a” and “b” and chapter 261.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend the following definitions in rule **283—14.1(261)**:

“Eligible rural community” means a medically underserved rural Iowa community with a population of 10,000 or less.

“Primary care” means family medicine, general internal medicine, pediatrics, and emergency room medicine.

ITEM 2. Amend subparagraphs **14.3(7)“a”(1) to (3)** as follows:

(1) Complete a residency in primary care program within four years after graduation from the university.

(2) Practice in an Iowa eligible rural community, identified by the university as a participating physician shortage community.

(3) Annually certify employment in a designated Iowa physician shortage community, an eligible rural community.

ITEM 3. Amend rule 283—14.4(261) as follows:

283—14.4(261) Physician loan repayment program.

14.4(1) Recruitment. The university shall recruit and place physicians in eligible rural communities that agree to

provide additional funds for the physician loan repayment program.

14.4(2) Physician service requirement. The physician service requirement for the physician loan repayment program is four years.

14.4(3) Award. The physician may receive up to \$40,000 \$50,000 in state-funded repayment benefits when a community agrees to fund matching benefits of at least \$40,000 \$50,000.

14.4(4) Disbursement.

a. The commission shall disburse state funds to the university upon receipt of the physician’s contract to practice in an eligible rural community.

b. The university shall arrange for the repayment of the physician’s loan(s).

14.4(5) Repayment.

a. If a physician fails to meet the practice primary care requirements in the agreed-upon location for four years, the physician shall repay the commission on a prorated basis. The prorated balance will be calculated as a daily amount by dividing the amount advanced by the number of days in the service period less the number of days served by the physician multiplied by the daily amount.

b. A physician shall repay the prorated balance of the physician loan repayment benefits and accrued interest at 12 percent per annum.

c. The prorated balance of the physician loan repayment benefits must be paid in full within three years from the date the primary care service ends.

14.4(6) and 14.4(7) No change.

ARC 4721B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendments reflect the current terminology and practice in school libraries.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Thursday, December 29, 2005, at 1 p.m. in Room 3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, December 30, 2005. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 14.140(8) as follows:

14.140(8) Elementary school ~~media-specialist teacher librarian.~~

a. Authorization. The holder of this endorsement is authorized to serve as a ~~school-media specialist teacher librarian~~ in kindergarten and grades one through six.

b. Program requirements.

(1) to (3) No change.

(4) Content. Completion of 24 semester hours in school ~~media library~~ coursework to include the following:

1. Knowledge of materials and literature in all formats for elementary children.

2. Selection, utilization and evaluation of library ~~media materials resources~~ and equipment.

3. Design and production of instructional materials.

4. Acquisition, cataloging and classification of ~~library materials and organization of equipment.~~

5. Information ~~retrieval literacy~~, reference services and networking.

6. Planning, evaluation and administration of ~~media school library~~ programs.

7. Practicum in an elementary school ~~media-center me-~~ *dia center/library.*

ITEM 2. Amend subrule 14.140(9) as follows:

14.140(9) Secondary school ~~media-specialist teacher librarian.~~

a. Authorization. The holder of this endorsement is authorized to serve as a ~~school-media specialist teacher librarian~~ in grades seven through twelve.

b. Program requirements.

(1) to (3) No change.

(4) Content. Completion of 24 semester hours in school ~~media library~~ coursework to include the following:

1. Knowledge of materials and literature in all formats for adolescents.

2. Selection, utilization and evaluation of library ~~media materials resources~~ and equipment.

3. Design and production of instructional materials.

4. Acquisition, cataloging and classification of ~~library materials and organization of equipment.~~

5. Information ~~retrieval literacy~~, reference services and networking.

6. Planning, evaluation and administration of ~~media school library~~ programs.

7. Practicum in a secondary school ~~media-center media center/library.~~

ITEM 3. Amend subrule 14.140(10) as follows:

14.140(10) School ~~media-specialist teacher librarian.~~ K-12.

a. Authorization. The holder of this endorsement is authorized to serve as a ~~school-media specialist teacher librari-~~ *an* in kindergarten and grades one through twelve.

b. Program requirements.

(1) Degree—master's.

(2) Content. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school ~~media library~~ coursework, to include the following:

1. Planning, evaluation and administration of ~~media school library~~ programs.

2. Curriculum development and teaching and learning strategies.

3. Instructional development and communication theory.

4. Selection, evaluation and utilization of library ~~media materials resources~~ and equipment.

5. Acquisition, cataloging and classification of ~~library materials and organization of equipment.~~

6. Design and production of instructional materials.

7. Methods for instruction and integration of ~~media in-~~ *formation literacy* skills into the school curriculum.

8. Information ~~retrieval literacy~~, reference services and networking.

9. Knowledge of materials and literature in all formats for elementary children and adolescents.

10. Reading, listening and viewing guidance.

11. Utilization and application of computer technology.

12. Practicum at both the elementary and secondary levels.

13. Research in ~~media library~~ and information science.

NOTE: The applicant must be the holder of or eligible for the initial license.

ARC 4731B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby gives Notice of Intended Action to amend Chapter 36, "Extracurricular Inter-scholastic Competition," Iowa Administrative Code.

These amendments are proposed to implement statutory language and to make the enforcement of the athletic rules uniform for all students participating in extracurricular activities. 2005 Iowa Acts, House File 423, amended Iowa Code section 256.46 and Iowa Code subsection 282.18(13). Items 6 through 8 are proposed to implement statutory language. All other amendments are pursuant to the authority granted the State Board of Education in Iowa Code section 280.13.

EDUCATION DEPARTMENT[281](cont'd)

No waiver provision is included because the Board of Education has adopted agencywide waiver rules in 281—Chapter 4.

Any interested person may submit electronic, oral or written comments on or before January 26, 2006, by addressing them to Carol Greta, Legal Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-5295; fax (515)281-4122; E-mail carol.greta@iowa.gov.

There will be public hearings on January 11, 2006, and January 26, 2006, at 1 p.m. over the Iowa Communications Network (ICN) with the origination site in the ICN Room, Second Floor, Grimes State Office Building, Des Moines, Iowa, at which persons may present their views orally or in writing. The following ICN sites will be available on both dates:

Keystone AEA 1 1400 2nd Street NW Elkader	North Iowa Area Community College 200 Harwood Dr. Charles City Ctr., Rm. 106 Charles City
Iowa Lakes Comm. College 300 South 18th Street Room 22, Library Bldg. Estherville	Iowa Lakes Comm. College 2111 Highway 169 North Attendance Center, Room 13 Algona
Iowa Lakes Comm. College 1900 North Grand Avenue Fiber Optic Rm. 118 Spencer Attendance Ctr. Spencer	Iowa Lakes Comm. College 3200 College Drive Smith Wellness Ctr., Rm. 818 Emmetsburg
Ellsworth Comm. College 1100 College Avenue Reg Johnson Hall 105 Iowa Falls	Iowa Valley Comm. College 3702 South Center Street Continuing Ed. Ctr., Rm. 806 Marshalltown
Hawkeye Community College 1501 E. Orange Rd. Tama Hall, Rm. 110 Waterloo	Iowa State University Lagomarcino Hall, Rm. N147 Ames
Clinton Community College 1000 Lincoln Blvd., Rm. 105 Clinton	Muscatine Comm. College 152 Colorado St. Larson Hall, Rm. 60 Muscatine
Scott Community College 500 Belmont Road, Rm. 210 Bettendorf	Southwestern Comm. College 2300 N. 4th Street, Red Oak Ctr., Rm. 116 Red Oak
NE Iowa Community College 10250 Sundown Rd. Conference Ctr., Rm. 2 Peosta	North Iowa Area Comm. College 500 College Dr. Careers Bldg., Rm. 128 Mason City
Kirkwood Comm. College 6301 Kirkwood Blvd. SW Linn Hall, Rm. 203B Cedar Rapids	Luther College 700 College Drive Preus Bldg., Room 100 Decorah
Prairie Lakes AEA 8 330 Avenue M, Lib. 204 Fort Dodge	Green Valley AEA 14 1405 N. Lincoln, Turner Rm. Creston
Southern Prairie AEA 15 2814 N. Court Street Ottumwa	Iowa Western Comm. College 2700 College Rd., Looft Hall Council Bluffs

Iowa City Comm. School
Dist.
509 S. Dubuque Street
Iowa City

Northwest IA Comm. College
603 West Park St.
Bldg. D, Rm. 410
Sheldon

Southeastern Comm. College
1500 W. Agency
AG Room 331
West Burlington

Area Education Agency 267
3712 Cedar Heights Dr.
Cedar Falls

Indian Hills Comm. College
North First Street
Room CV15B
Centerville

Iowa Lakes Comm. College
2008 Hill Avenue
Spirit Lake

Buena Vista University
610 West 4th St.
Information Tech. Ctr.,
Rm. 7B
Storm Lake

These amendments are intended to implement Iowa Code section 280.13 and sections 256.46 and 282.18(13) as amended by 2005 Iowa Acts, House File 423.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **281—36.1(280)**, definition of “coach,” as follows:

“Coach” means an individual, with coaching endorsement or authorization as required by Iowa law, employed by a school district under the provisions of an extracurricular athletic contract or employed by a nonpublic school in a position responsible for an extracurricular athletic activity. “Coach” also includes an individual who instructs, diagnoses, prescribes, evaluates, assists, or directs student learning of an interscholastic athletic endeavor on a voluntary basis on behalf of a school or school district.

ITEM 2. Amend subrule 36.4(3) as follows:

36.4(3) Organization elections. The election procedure for each organization shall be conducted as provided by ~~their~~ *the organization's* constitution. All criteria for protecting the voter's anonymity and ensuring adequate notice of elections shall be maintained in the election procedures. In addition, there shall be one representative designated by the ~~state board of education~~ *department director* present at the counting of all ballots. That representative shall also validate election results.

ITEM 3. Amend subrule 36.14(2) as follows:

36.14(2) Sportsmanship. It is the clear obligation of *member and associate member schools to ensure that their contestants, and coaches, and spectators* in all interscholastic competitions to practice the highest principles of sportsmanship, *conduct*, and ethics of competition. The governing organization shall have authority to penalize any *member school, associate member school, contestant, or coach* in violation of this obligation.

ITEM 4. Amend subrule 36.14(7) as follows:

36.14(7) Ineligible player participation. Member or associate member schools that permit or allow participation in any event by a person in violation of the eligibility rules *or by a student who has been suspended* shall be subject to sanctions the executive board may, in the best interests of interscholastic competition, impose, including forfeiture of contests. The sanctions may include, but are not limited to, the

EDUCATION DEPARTMENT[281](cont'd)

following: forfeiture of contests or events or both, involving any ineligible student(s); adjustment or relinquishment of conference/district/tournament standings; and return of team awards or individual awards or both.

If a student who has been declared ineligible *or who has been suspended* is permitted to participate in an interscholastic competition because of a current restraining order or injunction against the school, registered organization, or department of education, and if such restraining order or injunction subsequently is voluntarily vacated, stayed, reversed, or finally determined by the courts not to justify injunctive relief, the sanctions listed above may be imposed.

ITEM 5. Amend subrule 36.15(2) as follows:

36.15(2) Scholarship rules.

a. All contestants must be enrolled and in good standing in a school that is a member or associate member in good standing of the organization sponsoring the event.

b. All contestants must be under 20 years of age.

c. All contestants shall be enrolled students of the school in good standing; ~~they shall have earned 20 semester hours' credit toward graduation in the preceding semester and shall be making passing grades in subjects for which 20 semester hours' credit is given for the current semester as determined by local policy. They shall be enrolled in at least four full-credit subjects, each of one period or "hour" or the equivalent thereof, at all times.~~

The term "preceding semester" means that semester immediately preceding the semester the student wishes to participate in athletics. Twenty semester hours means four subjects of one period or "hour" each, daily, five times a week for one semester or the equivalent. To qualify under this rule, a "subject" must meet the requirements of 281—subrules 12.5(18), 12.5(19) and 12.5(29) 281—Chapter 12. Coursework taken under the provisions of Iowa Code chapter 261C, postsecondary enrollments *enrollment* options, for which a school district or accredited nonpublic school grants academic credit toward high school graduation shall be used in determining eligibility.

In each grading period, each contestant shall be passing all coursework for which credit is given and shall be making adequate progress toward graduation requirements as determined by local policy. "Grading period" is determined by local policy. If at any point a contestant fails to pass all such coursework, the contestant is ineligible to dress for and compete in interscholastic athletic contests and competitions for 20 consecutive school days. At the end of the period of ineligibility, the contestant's school must review the contestant's grades to ensure that the contestant is then passing all such coursework. If the contestant is not passing all such coursework at that point, the contestant remains ineligible for an additional 20 consecutive school days. All contestants' grades shall be evaluated by their schools on a periodic basis, no less than once every four weeks, to ensure that the contestants remain in compliance with this subrule. All member schools shall provide appropriate interventions for students who fail or who are at risk to fail, and shall report to the department regarding those interventions on the comprehensive school improvement plan.

~~Special education students~~ A student with a disability who has an individualized education program shall not be denied eligibility on the basis of scholarship if the student is making adequate progress, as determined by school officials, towards the goals and objectives on the student's individualized education program.

No student of an "accredited school," within the meaning of Iowa Code section 256.11(10), shall be denied eligibility if

the student's school program deviates from the traditional two-semester school year.

d. A student who meets all other qualifications may be eligible to participate in interscholastic athletics for a maximum of eight consecutive semesters upon entering the ninth grade for the first time. However, a student who engages in athletics during the summer following eighth grade is also eligible to compete during the summer following twelfth grade. Extenuating circumstances, such as health, may be the basis for an appeal to the executive board which may extend the eligibility of a student when *it the executive board* finds that the interests of the student and interscholastic athletics will be benefited.

~~e.—If, for any reason, it is impossible for the student to make up incomplete work at the same school where the work was taken to meet the 20-semester-hour requirement, upon request by the local superintendent, the executive board can rule on the student's eligibility.~~

f e. A student is academically eligible upon entering the ninth grade. No student shall be eligible to participate in any given interscholastic athletic sport if the student has engaged in that sport professionally.

g f. No student who has been a member of a college squad or who has trained with a college squad or participated in a college contest shall be eligible for any athletic contest.

h g. A student who is eligible at the close of a semester is academically eligible until the beginning of the subsequent semester.

~~i.—A student may earn up to the equivalent of ten semester hours for interscholastic eligibility purposes in a summer program operated by an accredited school; or with approval of a local board of education, by correspondence work recognized by national accreditation agencies; or voluntary courses of study provided by a member school. To utilize summer coursework for the purpose of eligibility, the student must have been enrolled in the school in which the student wishes to participate in the sports program during the spring semester or quarter immediately preceding the summer session. In the spring semester or quarter, the student must have been charged with a semester of eligibility attendance, but will not be charged with a semester of eligibility, or any part thereof, by reason of having taken such summer school work.~~

j h. The local superintendent of schools, with the approval of the local board of education, may give permission to a dropout student to participate in athletics upon return to school if the student is otherwise eligible under these rules.

ITEM 6. Amend the introductory paragraph of subrule 36.15(3) as follows:

36.15(3) General transfer rule. A student who transfers from a school in another state or country or from one member or associate member school to another member or associate member school shall be ineligible to compete in interscholastic athletics for a period of 90 consecutive school days, as defined in 281—subrule 12.1(8) rule 281—12.1(256), exclusive of summer enrollment, unless one of the exceptions listed in paragraph 36.15(3)"a" applies. *The period of ineligibility applies only to varsity level contests and competitions. ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.)* In ruling upon the eligibility of transfer students, the executive board shall consider the factors motivating student changes in residency. Unless otherwise provided in these rules, a student intending to establish residency must show that the student is physically present in the district for

EDUCATION DEPARTMENT[281](cont'd)

the purpose of making a home and not solely for school or athletic purposes.

ITEM 7. Amend the introductory paragraph of subrule 36.15(4) as follows:

36.15(4) Open enrollment transfer rule. A student in grades 10 through 12 whose transfer of schools had occurred due to a request for open enrollment by the student's parent or guardian is ineligible to compete in interscholastic athletics during the first 90 school days of transfer *except that a student may participate immediately if the student is entering grade 9 for the first time and did not participate in an interscholastic athletic competition for another school during the summer immediately following eighth grade. The period of ineligibility applies only to varsity level contests and competitions.* ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.) This period of ineligibility does not apply if the student:

ITEM 8. Amend subrule **36.15(5)**, paragraphs "b" and "c," as follows:

b. Dual enrollment. A student who receives competent private instruction, not in an accredited nonpublic or public school, may seek dual enrollment in the public school of the student's resident district and is eligible to compete in interscholastic athletic competition in the resident school district provided the student meets the eligibility requirements of these rules and those set by the public school of attendance.

If a student seeking such dual enrollment is enrolled in an associate member school of the Iowa Girls' High School Athletic Union or Iowa High School Athletic Association, the student is eligible for and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing agreement. (Eligibility in such case is governed by 281 IAC 36.1(280).)

Any ineligibility imposed under this chapter shall begin with the first day of participation under dual enrollment. *Any period of ineligibility applies only to varsity level contests and competitions.* ("Varsity" means the highest level of competition offered by one school or school district against the highest level of competition offered by an opposing school or school district.)

c. Competent private instruction. A student who receives competent private instruction, and is not dual-enrolled in a public school, may participate in and be eligible for interscholastic athletics at an accredited nonpublic school if the student is accepted by that school and the student meets the eligibility requirements of this chapter and those set by the accredited nonpublic school where the student participates. Application shall be made to the accredited nonpublic school on a form provided by the department of education.

If a student seeking such participation is enrolled in an associate member school of the Iowa Girls' High School Athletic Union or Iowa High School Athletic Association, the student is eligible for and may participate in interscholastic athletic competition only for the associate member school or a school with which the associate member school is in a cooperative sharing agreement. (Eligibility in such case is governed by 281 IAC 36.1(280).)

Any ineligibility imposed under this chapter shall begin with the first day of participation with the accredited nonpublic school. *Any period of ineligibility applies only to varsity level contests and competitions.* ("Varsity" means the highest level of competition offered by one school or school dis-

trict against the highest level of competition offered by an opposing school or school district.)

ITEM 9. Amend rule 281—36.16(280) as follows:

281—36.16(280) Executive board review. A student, parent of a minor student, or school contesting the ruling of a student's eligibility based on these rules, other than subrule 36.15(1), or a school contesting a penalty imposed under subrule 36.15(6), paragraph "b," shall be required to state the basis of the objections in writing and may also request an oral hearing, addressed to the executive officer of the board of the governing organization. The executive officer shall schedule a hearing before the executive board on or before the next regularly scheduled meeting of the executive board, but not later than 20 days following the receipt of the objections unless a later time is mutually agreeable. The executive board shall give at least 5 days' written notice of the hearing. The executive board shall consider the evidence presented and issue findings and conclusions in a written decision within 5 days of the hearing, ~~mailing and shall mail~~ a copy to appellant.

ARC 4715B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

Chapter 94 gives the regulations for hunting deer and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of taking, and transportation tag requirements. These amendments will require nonresidents who purchase an any-deer license to also purchase an antlerless-only deer license.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 11, 2006. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on January 11, 2006, at 10:30 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or

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mobility impairments should inform the Department of Natural Resources of specific needs.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 571—94.1(483A) as follows:

571—94.1(483A) Licenses. Every hunter must have in possession a valid nonresident deer license, a valid nonresident hunting license, and proof that the hunter has paid the current year's wildlife habitat fee when hunting, possessing, or transporting deer. No person, while hunting deer, shall carry or have in possession any license or transportation tag issued to another person. ~~No person shall obtain more than one nonresident deer hunting license.~~

94.1(1) Types of licenses.

a. *Any-deer licenses.* Any-deer licenses shall be valid for taking deer of either sex in the zone and season designated by the hunter when the application is submitted as described in rule 94.8(483A).

b. *Mandatory antlerless-only licenses.* Each hunter who is successful in drawing an any-deer license must also purchase an antlerless-only license for the same zone and season as the any-deer license. If the hunter is unsuccessful in drawing an any-deer license, neither the any-deer nor antlerless-only license will be issued.

c. *Optional antlerless-only licenses.* A hunter who is not successful in drawing an any-deer license may purchase an antlerless-only license as described in rule 94.8(483A). This antlerless-only license shall be valid in the zone and season designated by the hunter at the time it is purchased.

d. *Antlerless deer defined.* Antlerless-only licenses shall be valid for taking deer that have no forked antler.

~~94.1(1) (2)~~ **94.1(1) (2)** Bow season license. Bow and arrow deer licenses shall be valid for ~~any-sex deer of either sex~~ or antlerless deer ~~only~~ during the bow season and in the zone designated by the hunter at the time the application is submitted.

~~94.1(2) (3)~~ **94.1(2) (3)** Regular gun season license. Regular gun season licenses will be issued for ~~any-sex deer of either sex~~ or antlerless deer. Regular gun season licenses will be issued by zone and season and will be valid in the designated zone and for the designated season ~~only designated by the hunter when the application is submitted.~~

~~94.1(3) (4)~~ **94.1(3) (4)** Muzzleloader season license. Muzzleloader season licenses will be issued for ~~any-sex deer of either sex~~ or antlerless deer and shall be valid only during the muzzleloader season and in the zone designated by the hunter when the application is submitted.

ITEM 2. Amend rule 571—94.6(483A) as follows:

571—94.6(483A) License quotas. A limited number of nonresident deer licenses will be issued in zones as follows:

94.6(1) Zone license quotas. Nonresident license quotas are as follows:

	Any-sex deer licenses		Antlerless-deer-only licenses	
	Any-deer licenses		Mandatory Antlerless-only	Optional Antlerless-only
	All Methods	Bow licenses		
Zone 1.	180	63	180	
Zone 2.	180	63	180	
Zone 3.	560	196	560	
Zone 4.	1280	448	1280	
Zone 5.	1600	560	1600	
Zone 6.	800	280	800	
Zone 7.	360	126	360	
Zone 8.	240	84	240	
Zone 9.	600	210	600	
Zone 10.	200	70	200	
Total	6000	2100	6000	3500 statewide

94.6(2) Quota applicability. The license quota issued for each zone will be the quota for all bow, regular gun and muzzleloader season licenses combined. No more than 6,000 ~~any-sex deer any-deer~~ licenses and 6,000 mandatory antlerless-only licenses will be issued for all methods of take combined, for the entire state. Of the 6,000 ~~any-sex deer any-deer~~ and 6,000 mandatory antlerless-only licenses, no more than 35 percent in any zone can be bow licenses. A maximum of ~~2,500 antlerless-deer-only~~ 3,500 optional antlerless-only licenses, regardless of season or zone, will be issued for the entire state. Hunters must designate a zone and season when purchasing the license and hunt only in that zone and season.

~~94.6(3) Antlerless defined.~~ For purposes of this chapter, antlerless deer are defined as deer without antlers or with no antler longer than 7 inches.

ITEM 3. Amend subrule 94.7(5) as follows:

94.7(5) Discharge of firearms from highway. No person shall discharge a shotgun shooting slugs or a muzzleloader from a highway during the regular gun seasons in all counties and parts of counties north of Highway 30 and west of Highway 63. A "highway" means the way between property lines open to the public for vehicle traffic as defined in Iowa Code section 321.1(78).

ITEM 4. Amend rule 571—94.8(483A) as follows:

571—94.8(483A) Application procedure. Applications for nonresident deer hunting licenses must be made through the electronic licensing system for Iowa (ELSI) telephone order system or the ELSI Internet license sales Web site.

94.8(1) Any-sex Any-deer licenses. Applications for any-sex any-deer licenses will be accepted from the first Saturday in May through the first Sunday in June. No one may submit more than one application during the application period. Hunters may apply as individuals or as a group of up to 15 applicants. All members of a group will be accepted or rejected together in the drawing. If applications have been sold in excess of the license quota for any zone or season, a drawing will be held to determine which applicants receive licenses. Licenses or refunds of license fees will be mailed to applicants after the drawing is completed. License agent writing fees, department administrative fees and telephone order charges will not be refunded. If any zone's license quota for any-sex any-deer licenses has not been filled, the excess any-sex any-deer licenses will be sold on a first-come, first-served basis through the telephone ordering system or

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the Internet license sales Web site. Excess ~~any-sex any-deer~~ licenses will be sold beginning the fourth Saturday after the close of the application period until the quota has been filled or the last day of the hunting period for which the license is valid, whichever occurs first. Members of a group that is rejected may purchase licenses individually if excess ~~any-sex any-deer~~ licenses or ~~antlerless-deer-only optional antlerless-only~~ licenses are available.

94.8(2) ~~Antlerless-deer-only Optional antlerless-only~~ licenses. ~~Antlerless-deer-only Optional antlerless-only~~ licenses must be purchased through the ELSI telephone ordering system or the ELSI Internet license sales Web site. Licenses for taking ~~antlerless-only only antlerless~~ deer will be available on the same date as excess ~~any-sex any-deer~~ licenses are sold as explained in 94.8(1). ~~Antlerless-deer-only Optional antlerless-only~~ licenses will be sold first-come, first-served until the statewide quota is filled, or until the last day of the season for which a license is valid. If ~~antlerless-deer-only optional antlerless-only~~ licenses are still available on December 15, they may be purchased by nonresidents to hunt during the period from December 24 through January 2. These licenses will be available to nonresidents who have not purchased a nonresident deer license during one of the current deer seasons. ~~The cost will be \$50, and the~~ The hunter must have in possession a valid nonresident small game hunting license and proof of having paid the current year's wildlife habitat fee. ~~Antlerless-deer-only Optional antlerless-only~~ licenses will be issued by season and zone and will be valid only in the season and zone designated ~~on the license by the hunter at the time the license is purchased.~~

a. Nonresident landowners. Nonresidents who own land in Iowa will have preference in obtaining ~~antlerless-deer-only optional antlerless-only~~ licenses. Nonresidents must qualify as landowners following the criteria stated in 571—subrule 106.12(1) and 571—subrules 106.12(3) through 106.12(6), except that nonresident tenants and family members of nonresident landowners and tenants do not qualify and nonresident ~~antlerless-deer-only optional antlerless-only~~ licenses will not be free of charge. If a farm unit is owned jointly by more than one nonresident, only one owner may ~~obtain a nonresident antlerless-deer-only license claim landowner preference~~ in the same year. Nonresidents who own land jointly with a resident do not qualify for preference. Nonresidents who have provided proof to the department that they own land in Iowa and meet the qualifying criteria may exclusively purchase ~~antlerless-deer-only optional antlerless-only~~ licenses for the first 14 days of the sale period. Such proof must be provided before an ~~antlerless-deer-only optional antlerless-only~~ license can be purchased and must be resubmitted each year in which an ~~antlerless optional antlerless-only~~ license is purchased.

b. Nonresident proof of land ownership. Nonresidents who request preference for ~~antlerless-deer-only optional antlerless-only~~ licenses will be required to submit a copy of their state of Iowa property tax statement for the current year or sign an affidavit that lists the legal description of their land, date purchased, and book and page number, or instrument number, where the deed is recorded.

c. Nonresidents who do not own land in Iowa. Nonresidents who are not Iowa landowners may purchase ~~antlerless-deer-only optional antlerless-only~~ licenses beginning the fifteenth day after ~~antlerless-deer-only~~ licenses they are available to landowners.

94.8(3) Preference points. Each individual applicant who is unsuccessful in the drawing for an ~~any-sex any-deer~~ license will be assigned one preference point for each year that the individual is unsuccessful. Preference points will not ac-

crue in a year in which an applicant fails to apply, but the applicant will retain any preference points previously earned. Preference points will apply only to obtaining ~~any-sex any-deer~~ licenses. Once an applicant receives an ~~any-sex any-deer~~ nonresident deer hunting license, all preference points will be removed until the applicant is again unsuccessful in a drawing or purchases a preference point as described in subrule 94.8(4). Preference points will apply to any zone or season for which a hunter applies. The first drawing for ~~any-sex any-deer~~ licenses each year will be made from the pool of applicants with the most preference points. If licenses are still available after the first drawing, subsequent drawings will be made from pools of applicants with successively fewer preference points and continue until the ~~any-sex any-deer~~ license quota is reached or all applicants have received licenses. Applicants who apply as a group will be included in a pool of applicants with the same number of preference points as that of the member of the group with the fewest preference points assigned.

94.8(4) Purchasing preference points. A nonresident who does not want to hunt in the current year may purchase one preference point per calendar year. The preference point will apply to the next year's drawing for ~~any-sex any-deer~~ licenses. The preference point will be treated in the same manner as preference points obtained by hunters who are unsuccessful in the ~~any-sex any-deer~~ license drawing. A nonresident may not purchase a preference point and apply for an ~~any-sex any-deer~~ license in the same calendar year. Preference points may be purchased only during the application period for ~~any-sex any-deer~~ licenses. Preference points will cost \$10 to offset administrative costs in addition to the usual writing fee, convenience fee and other fees charged by the ELSI system.

ARC 4716B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 114, “Nuisance Wildlife Control,” Iowa Administrative Code, and adopt a new Chapter 114 with the same title.

Chapter 114 explains provisions for allowing private individuals to handle nuisance wildlife complaints. The new chapter adds rules to permit private individuals, organizations, businesses, and public agencies to engage in lethal control practices and trap and translocation programs to control injurious or overabundant Canada geese.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 11, 2006. Such written materials should be directed to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or

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at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on January 11, 2006, at 11:30 a.m. in the Fourth Floor East Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should inform the Department of Natural Resources of specific needs.

This amendment is intended to implement Iowa Code sections 456A.24(8), 481A.38, 481A.39 and 481A.48.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind 571—Chapter 114 and adopt the following **new** chapter in lieu thereof:

CHAPTER 114
NUISANCE WILDLIFE CONTROL

571—114.1(456A) Nuisance wildlife control program. This chapter is intended to implement Iowa Code section 456A.24(8) by providing permitting of nuisance wildlife control operators for the purpose of protecting private property from nuisance wildlife. No provision of this chapter shall restrict a landowner from lawfully removing nuisance wildlife pursuant to Iowa Code section 481A.87.

571—114.2(456A) Definitions.

“Annual activity report” means an annual report submitted on a form provided by the department.

“Biologist” means a natural resource biologist employed by the wildlife bureau of the department of natural resources.

“Guidebook” means the nuisance wildlife control operator’s manual provided by the department.

“Helper” means a person who possesses a fur harvester license, has paid the habitat fee, and is listed, by name, on the permit as authorized to perform nuisance wildlife control operator duties under the direction of the permittee.

“Nuisance wildlife” means wild, native animals or birds that are causing damage to private property, creating a nuisance, or presenting a health hazard.

“Nuisance wildlife control operator” or “NWCO” means a person who operates as a business and charges a fee to remove nuisance wildlife from private property.

“Permit” means an annual permit issued by the department under the authority of Iowa Code section 455A.5(6)“e” for the purpose of capturing and removing nuisance wildlife from private property. The permit shall expire January 10 of each year and is not transferable.

“Permittee” means an NWCO who possesses a valid nuisance wildlife control operator’s permit issued by the department and also possesses a valid Iowa fur harvester license and has paid the habitat fee.

“Special Canada goose control permit” or “SCGCP” means a permit to engage in the Canada goose population control activities specified by the department of natural resources.

“Technician” means a natural resource technician employed by the wildlife bureau of the department of natural resources.

“Translocate” means to transport and release an animal at a site other than the site at which it was captured.

571—114.3(456A) Nuisance wildlife control operator’s permit. An NWCO permit may be issued to an NWCO who, upon application and following review and testing, complies with all requirements established within this chapter. This is an annual permit and may be renewed by January 10 of the following year. The department shall not renew a permit without first receiving a completed annual activity report for the previous year.

571—114.4(456A) Application requirements. All applicants must be at least 18 years of age and possess a valid driver’s license.

571—114.5(456A) Nuisance wildlife control operator’s guidebook. All applicants will receive an NWCO guidebook at the time they submit a completed permit application form. The permittee shall refer to the guidebook as an operating manual for nuisance wildlife control activity. All requirements and procedures listed in the guidebook must be followed. The NWCO guidebook is hereby adopted by reference and shall be a part of this chapter as if set forth herein.

571—114.6(456A) Nuisance wildlife control operator’s test and interview. An applicant must successfully pass a written test with a minimum test score of 80 percent before an NWCO permit will be issued. If the applicant fails the written test, the applicant must wait 45 days before retaking the test. If the applicant fails the written test a second time, the applicant must wait 180 days before reapplying. A \$25 testing fee will be assessed when the applicant successfully completes the test. In addition, the applicant must successfully complete an oral, in-person interview with a representative of the department to determine the applicant’s knowledge of wildlife and wildlife capture techniques, and to determine if the applicant has the ability to provide effective services to the public.

571—114.7(456A) Records and record-keeping requirements. All permittees shall keep a daily record of their nuisance wildlife control activities. Each record must contain the client’s name, address, telephone number, date of service, service provider’s name, species of animal, number of animals removed, control methods used, and disposition of the animals. Permittees holding an SCGCP must also document on aerial photos, or similar maps, the locations of all Canada goose nests destroyed, the numbers of Canada goose eggs destroyed, and the numbers of Canada geese killed at each project site. These records shall be kept up to date and on file at the business location specified in the permit. The permittee shall provide these records for inspection by a department representative at any reasonable time.

571—114.8(456A) Annual activity report. The permittee shall submit an annual activity report on forms provided by the department no later than January 31 of the following year. The department shall not renew a permit until a complete and accurate annual activity report has been received for the preceding year.

571—114.9(456A) Permit renewal. An NWCO permit may be renewed by the department when all reporting requirements for the previous year have been met. An administrative fee of \$20 will be assessed at the time of permit renewal.

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571—114.10(456A) Helper. A helper shall operate under the same conditions as the permittee. The permittee shall be responsible for all actions of the helpers listed on the permit. Compliance violations committed by a helper may be cause for the department to revoke the NWCO permit.

571—114.11(456A) Capture methods and trap tagging. Live traps such as box traps and leg-hold traps should be used whenever possible. Humane traps, which are those designed to kill instantly and which have a jaw spread exceeding eight inches, are unlawful except when placed entirely under water. All traps and snares, except those that are placed entirely under water, shall be checked once every 24 hours. All traps and snares for the taking of nuisance wildlife shall have a metal tag attached that is plainly labeled with the permittee's business name and address. If traditional capture methods fail, the permittee may use chemicals, smoking devices, mechanical ferrets, wire, tools, instruments, or water to remove nuisance animals in accordance with the procedures contained in the guidebook. No person, except a person acting under an NWCO permit, shall capture or take, or attempt to capture or take, with any trap, snare, or net, any game bird. The permittee and designated helpers shall observe all Iowa fur trapping and fur possession regulations as provided by Iowa law, the Iowa Administrative Code, and the NWCO guidebook.

571—114.12(456A) Endangered and threatened wildlife species. The permittee is not authorized to capture or possess any wildlife species listed as endangered or threatened. A permittee may only capture or possess a federally protected species to the extent that the permittee is authorized to engage in specific Canada goose population control activities by the terms of a valid SCGCP. This prohibition includes, but is not limited to, the capture or possession of bobcats, spotted skunks, hawks, owls, eagles, migratory birds, waterfowl, and songbirds. When a nuisance wildlife problem involves an endangered or threatened species, the local state conservation officer must be contacted, and the officer will determine how the situation should be handled.

571—114.13(456A) Special Canada goose control permits. A person applying for a special Canada goose control permit to use lethal methods to control Canada goose populations or to trap and translocate Canada geese must be a currently certified NWCO and must abide by the following rules:

114.13(1) Lethal control practices. Permittees wishing to use lethal methods, such as nest destruction, egg oiling, egg addling, or killing geese, must comply with the following procedures:

a. Permittees must obtain written permission from the biologist responsible for the county in which the lethal control practice is proposed for every site where a lethal control practice is proposed before implementing any such practice. The biologist will determine if lethal control practices are necessary and will specify the number of nests, eggs, or adult geese that can be destroyed at each site.

b. The permittee must follow the procedures in the NWCO guidebook for implementing lethal control practices and disposing of dead birds, eggs, and nests. Failure to follow such procedures will result in immediate revocation of the permit.

c. Permittees must satisfactorily complete at least two lethal control projects under the direct supervision of a biologist or technician before being granted an SCGCP for lethal control practices. Upon the permittee's satisfactory completion of two lethal control projects, the biologist can issue the NWCO an SCGCP to perform lethal control activities without direct supervision by DNR personnel. The NWCO must carry

this permit whenever engaged in lethal Canada goose control activities and exhibit it upon request by department of natural resources personnel. Any persons assisting with the lethal control practices must be listed on the SCGCP. The permittee is responsible for the conduct of all persons listed on the SCGCP who are helping conduct lethal control operations.

d. Permittees must document on an aerial photo, or similar map, the locations of all Canada goose nests destroyed, the numbers of Canada goose eggs destroyed, and the numbers of Canada geese killed at each project site within 48 hours of completion of each project. Any banded geese that are killed must have the bands removed before disposal and be reported as specified in the NWCO guidebook within 48 hours of the permittee's completion of the project.

e. Permittees must provide the department a written report of all lethal control activities by December 31 of the year for which the SCGCP is valid. Failure to provide this report by December 31 will result in the permittee's not being reauthorized to use lethal control methods the following year.

114.13(2) Trapping and translocation operations. Permittees wishing to trap and translocate Canada geese must comply with the following procedures:

a. Permittees must obtain written permission from the biologist responsible for the county in which the trap and translocation operation is proposed for every site where such operation is proposed before implementing any such operation. The biologist will determine if a trap and translocation operation is necessary and will specify the number of geese that can be translocated from each site. The biologist will also specify release sites for the captured geese. Release sites must be approved by the biologist before any geese are captured.

b. The permittee must follow the procedures in the NWCO guidebook for implementing trap and translocation operations. Failure to follow such procedures will result in immediate revocation of the permit.

c. Before the permittee engages in a trap and translocation operation, the permittee's trapping and transport equipment must be inspected and approved by a biologist or technician.

d. Permittees must satisfactorily complete at least four trap and translocation projects under the direct supervision of a biologist or technician before being granted an SCGCP for trap and translocation operations. Upon satisfactory completion of four trap and translocation projects, the biologist can issue the NWCO an SCGCP to perform trap and translocation operations without direct supervision by DNR personnel. The NWCO must carry this permit whenever engaged in trap and translocation operations and exhibit it upon request by department of natural resources personnel. Any persons assisting with the trap and translocation operations must be listed on the SCGCP. The permittee is responsible for the conduct of all persons listed on the SCGCP who are helping with trap and translocation operations.

e. Permittees must inform the biologist of the number of birds captured and translocated within 48 hours of the completion of each operation. Permittees must document the number of Canada geese trapped and released for each capture and release site and the number of geese that died during each trap and translocation operation. Any banded geese that are captured and translocated must be reported as specified in the NWCO guidebook within 48 hours of completion of the project.

f. Permittees must provide the department a written report of all trap and translocation operations by December 31 of the year for which the SCGCP is valid. Failure to provide

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this report by December 31 will result in the permittee's not being reauthorized to trap and translocate geese the following year.

114.13(3) General provisions.

a. The SCGCP is valid for one year and must be reauthorized by a biologist each year when the NWCO permit is renewed.

b. Any plumage, eggs, egg shells, nests, or dead birds encountered by the permittee when performing activities permitted under this rule may not be sold, offered for sale, bartered or shipped or possessed for the purposes of being sold, offered for sale, bartered or shipped.

c. Any properties on which lethal control or trap and transport operations are conducted must be open at all reasonable times, including during actual operations, to any biologist or technician, conservation officer, U.S. Fish and Wildlife Service special agent, or U.S. Department of Agricultural Wildlife Services agent wishing to inspect the activity or the results of the activity.

d. Nothing in the permit should be construed to authorize the killing of any migratory bird or the destruction of the nests or eggs of any migratory bird other than resident Canada geese.

571—114.14(456A) Disposition of captured nuisance wildlife. Nuisance wildlife, with the exception of endangered or threatened species, may be relocated or euthanized. The permittee shall comply with the euthanization and release methods described in the NWCO guidebook. Sick or injured wildlife must be handled as described in the NWCO guidebook. The carcass of a dead nuisance animal must be disposed of in a legal manner and within 24 hours of the animal's death.

571—114.15(456A) General conditions for permits. Records and facilities shall be available for inspection by officers of the department during reasonable hours. All records and reports must be kept current and shall reflect a true and accurate account of the permittee's activities. The department's law enforcement bureau shall be notified in writing within 30 days if the permittee ceases operation as a nuisance wildlife control operator. Permittees and helpers must obtain and possess valid fur harvester licenses and have paid the habitat fees, except that persons listed as assistants on the SCGCP do not need to have a valid fur harvester license nor to have paid the habitat fee when assisting with Canada goose control activities. Permittees must renew their NWCO permits by January 31 of each year.

571—114.16(456A) Permit refusal. The department may suspend, revoke, refuse to issue, or refuse to renew a nuisance wildlife control operator's permit if the department finds that the permittee, a helper, or an employee of the permittee is not in compliance with this chapter. In addition, any violation of Iowa Code chapter 481A, 481B, 482, 483A, 484A, 484B, or 716 shall be cause for the department to suspend, revoke, refuse to issue, or refuse to renew a permit.

571—114.17(456A) Penalties. A person or organization that violates a provision of this chapter is guilty of a simple misdemeanor.

These rules are intended to implement Iowa Code sections 456A.24(8), 481A.38, 481A.39 and 481A.48.

ARC 4704B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 60, "Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences," Chapter 61, "Licensure of Salons and Schools of Cosmetology Arts and Sciences," Chapter 63, "Sanitation for Salons and Schools of Cosmetology Arts and Sciences," Chapter 64, "Continuing Education for Cosmetology Arts and Sciences," and Chapter 65, "Discipline for Cosmetology Arts and Sciences Licensees, Instructors, Salons, and Schools," Iowa Administrative Code.

The proposed amendments remove the requirement to take a separate examination covering Iowa law except in cases of reactivation, clarify the date that continuing education in the area of each procedure or device for which the licensee has received Board certification is required, address salon change of ownership requirements, define salon and school display of licensure documents, define salon owner and independent contractor responsibilities, and define whirlpool spa sanitation procedure requirements and other salon sanitation requirements.

Any interested person may make written comments on the proposed amendments no later than January 3, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 3, 2006, from 1 to 1:30 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind subrule **60.2(1)**, paragraph "g."

ITEM 2. Amend subrule **60.2(2)**, paragraph "f," as follows:

f. Pass an instructor's and Iowa law (jurisprudence) *national* examination; and

ITEM 3. Amend rule **645—60.7(157)**, numbered paragraph "4," as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

4. Passes the Iowa law (jurisprudence) national examination with a passing score of 75 percent or greater.

ITEM 4. Amend subrule 61.2(6), introductory paragraph, as follows:

61.2(6) A salon license is not transferable. A change in ownership of a salon shall require the issuance of a new license. *A salon cannot be sold if disciplinary actions are pending.*

ITEM 5. Amend subrule **61.2(6)** by adopting new paragraph “c” as follows:

c. If a salon owner sells the salon, that owner must send the license certificate and a report of the sale to the board within 10 days of the date on which the sale is final. The owner of the salon on record shall retain responsibility for the salon until the notice of sale is received in the board office.

ITEM 6. Amend subrule 61.5(2) as follows:

61.5(2) A salon license and the current wallet renewal card shall be posted and visible to the public *in or near the reception area and at eye level.*

ITEM 7. Amend subrule **61.7(1)**, paragraphs “a,” “b” and “c,” as follows:

a. A complete plan of the physical facilities and an explanation detailing how the facilities will be utilized relative to classroom, clinic space and mentoring program; *and*

b. ~~Proof of research and a completed survey that substantiates the need for a school; and~~

e b. A list of the names of licensed instructors for the proposed school. The number of instructors must meet the requirement outlined in Iowa Code section 157.8, with the exception of instructors for the mentoring program.

ITEM 8. Renumber rules **645—61.10(147)** through **645—61.23(157)** as **645—61.11(147)** through **645—61.24(157)** and adopt new rule 645—61.10(157) as follows:

645—61.10(157) Display requirements for schools.

61.10(1) Every school shall have a sign visible outside the entrance designating the place of business.

61.10(2) A school license and the current renewal card shall be posted and visible to the public in or near the reception area and at eye level.

61.10(3) The original license certificate, duplicate certificate, or reissued certificate shall be visibly displayed for each instructor employed by the school.

ITEM 9. Adopt new subrule 61.21(3) as follows:

61.21(3) Prior to closure, the controlling school shall establish agreements with another school to maintain student and graduate transcripts and records. Prior to closure, the controlling school shall also notify the board of the location of student records as established by the maintenance agreements. Provisions in the agreement must include maintenance of student transcript records for a period of no less than two years.

ITEM 10. Renumber subrule **63.3(3)** as **63.3(4)** and adopt the following new subrule:

63.3(3) A licensee shall have a valid U.S. government-issued photo ID, not more than five years old, in the licensee’s possession when the licensee is working in the salon, and the licensee must produce this identification for inspection upon request. Examples of a valid government-issued photo ID include a driver’s license or official photo ID provided by the Iowa department of transportation.

ITEM 11. Amend rule 645—63.4(157) as follows:

645—63.4(157) Responsibilities of salon owners and independent contractors.

63.4(1) Each salon owner shall ensure that:

1 a. Individuals employed for cosmetology services hold a current and valid license or temporary work permit issued by either the board of cosmetology arts and sciences or the board of barber examiners; ~~and~~

2 b. Licensees employed by the salon *or other licensees working in the salon* do not exceed their scope of practice; *and*

c. *No license which has expired or become invalid for any reason shall be displayed in connection with the practices of the salon.*

63.4(2) *The salon owner is responsible for all common areas, any employee areas and leased areas.*

63.4(3) *Independent contractors are responsible:*

a. *For their own permanently assigned station areas and any work stations that are being used when inspections occur;*

b. *For common areas on an equal basis when the salon owner is not present;*

c. *For holding a current and valid license issued by the board or the board of barber examiners; and*

d. *For ensuring that they do not exceed their scope of practice.*

ITEM 12. Amend rule **645—63.11(157)**, numbered paragraph “4,” as follows:

4. Disinfectant solution; *that shall be stored in the dispensary area; or at each work station for disinfecting instruments and equipment.*

ITEM 13. Amend subrule **63.12(1)** by adopting new paragraph “c” as follows:

c. Disinfectant solutions shall be changed at least once per week and whenever visibly cloudy or dirty.

ITEM 14. Amend rule 645—63.13(157) as follows:

645—63.13(157) Disinfecting electrical instruments.

63.13(1) *Disinfection of clippers.* Clippers shall be disinfected prior to each use with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity and used according to the manufacturer’s instructions.

63.13(2) *Cleaning and disinfection standards for electric file bits.*

a. *After each use, diamond, carbide, natural and metal bits shall be cleaned by either:*

(1) *Using an ultrasonic cleaner; or*

(2) *Immersing each bit in acetone for five to ten minutes.*

b. *Immediately after the cleaning of all visible debris, diamond, carbide, natural and metal bits shall be disinfected by complete immersion in an appropriate disinfectant before use on the next client.*

c. *Buffing bits and chamois shall be cleaned with soap and water; or washed with detergent in a dishwasher or washing machine following use on each client.*

d. *Arbor or sanding bands or sleeves are single-use items and shall be discarded immediately after use.*

ITEM 15. Amend rule 645—63.16(157) as follows:

Amend subrule 63.16(1) as follows:

63.16(1) ~~Creams Liquids, creams, powders~~ and cosmetics used for patrons must be kept in closed, labeled containers. All creams, makeups and other semisolid substances shall be removed from containers with a clean, sanitized applicator. Applicators made of a washable, nonabsorbent material shall

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

be sanitized before being used again. Applicators made of wood shall be discarded after one use.

Rescind and reserve subrule **63.16(3)**.

ITEM 16. Amend rule 645—63.18(157) as follows:

645—63.18(157) Prohibited hazardous substances and use of products and equipment.

63.18(1) No salon or school shall have on the premises cosmetic products containing substances which have been banned or otherwise deemed hazardous or deleterious by the FDA for use in cosmetic products. Prohibited products include, but are not limited to, any product containing liquid methyl methacrylate monomer and methylene chloride. No product shall be used in a manner that is not approved by the FDA. The presence of the product in a salon or school is prima facie evidence of that product's use in the salon or school.

63.18(2) *No salon or school shall have on the premises any razor-edged or other device or tool which is designed to remove skin unless used by licensed nail technicians to remove cuticles. If such equipment is on site, it shall be prima facie evidence of its use.*

63.18(3) Nail buffers.

a. *A nail buffer that can be sanitized may be used more than once, but it must be sanitized before use on the next client.*

b. *If a nail buffer cannot be sanitized, the nail buffer shall not be used for more than one client.*

c. *The presence of chamois buffers in the workplace shall be prima facie evidence of their use.*

ITEM 17. Amend subrule 63.22(2) as follows:

63.22(2) Workstations and flooring in work areas shall be kept clean and in good repair.

ITEM 18. Adopt **new** rule 645—63.25(157) as follows:

645—63.25(157) Cleaning and disinfecting whirlpool foot spas.

63.25(1) As used in this rule, "whirlpool foot spa," "foot spa," "whirlpool," or "spa" is defined as any basin using circulating or still water.

63.25(2) After use for each patron, each whirlpool foot spa shall be cleaned and disinfected in the following manner:

a. All water shall be drained and all debris shall be removed from the spa basin.

b. The spa basin must be cleaned with soap or detergent and water.

c. The spa basin must be disinfected with an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity which must be used according to the manufacturer's instructions.

d. The spa basin must be wiped dry with a clean towel.

63.25(3) At the end of each day, each whirlpool foot spa shall be cleaned and disinfected in the following manner:

a. The screen shall be removed, all debris trapped behind the screen shall be removed, and the screen and the inlet shall be washed with soap or detergent and water.

b. Before the screen is replaced, it shall be completely immersed in an EPA-registered disinfectant with demonstrated bactericidal, fungicidal, and virucidal activity which must be used according to the manufacturer's instructions.

c. The spa system shall be flushed with low sudsing soap and warm water for at least ten minutes, after which the spa shall be rinsed and drained.

63.25(4) Every other week (biweekly), after cleaning and disinfecting as provided in subrule 63.25(3), each whirlpool foot spa shall be cleaned and disinfected in the following manner:

a. The spa basin shall be filled completely with water and one teaspoon of 5.25 percent bleach or recommended whirlpool disinfectant for each one gallon of water, or a solution of sodium hypochlorite of approximately 50 ppm used according to the manufacturer's instructions.

b. The spa system shall be flushed with the bleach or recommended whirlpool disinfectant and water solution, or sodium hypochlorite solution, for five to ten minutes and allowed to sit for six to ten hours.

c. The spa system shall be drained and flushed with water before use for a patron.

63.25(5) A record shall be made of the date and time of each cleaning and disinfecting as required by subrules 63.25(3) and 63.25(4), and shall indicate whether the cleaning was a daily or biweekly cleaning. This record shall be made at or near the time of cleaning and disinfecting. Records of cleaning and disinfecting shall be made available upon request by a patron, inspector or investigator. The record must be signed by a licensee and include the licensee's license number beside each recorded cleaning event.

63.25(6) A violation of this rule may result in an administrative fine or disciplinary action or both. A separate violation may result for each foot spa that is not in compliance with this rule.

63.25(7) A licensee who provides services related to whirlpool foot spas shall submit a report to the board within 30 days of any incident in which provision of such services resulted in physical injury requiring medical attention. Failure to comply with this requirement shall result in disciplinary action by the board. The report shall include a description of the following:

a. The procedures;

b. The physical condition of client;

c. The adverse occurrence, including:

(1) Symptoms of any complications including, but not limited to, onset and type of symptoms;

(2) A description of the services provided that caused the situation;

(3) A description of the procedure that was followed by the licensee;

(4) A description of the client's condition on termination of any procedures undertaken;

(5) If a client is referred to a physician, a statement providing the physician's name and address if known.

ITEM 19. Amend subrule **64.3(2)**, paragraph "**h**," subparagraphs (2) and (5), as follows:

(2) Schools and institutes of cosmetology arts and sciences *with Iowa board-approved curriculum*;

(5) Barber schools or institutes *with Iowa board-approved curriculum*;

ITEM 20. Adopt **new** subrule 65.2(36) as follows:

65.2(36) A person is determined by the investigator to be providing cosmetology services and leaving a salon at the time of inspections, which shall be prima facie evidence that an unlicensed person is providing services for which a license is required.

ARC 4699B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners hereby gives Notice of Intended Action to amend Chapter 240, “Licensure of Psychologists,” and Chapter 242, “Discipline for Psychologists,” Iowa Administrative Code.

The proposed amendments clarify that there are two examinations that the applicant must pass for licensure and provide the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendments no later than January 3, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 3, 2006, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154B and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **240.2(1)**, paragraph “e,” as follows:

e. An applicant shall successfully pass the national *examination* and Iowa jurisprudence ~~examinations~~ *examination*.

ITEM 2. Adopt **new** rule 645—242.5(154B) as follows:

645—242.5(154B) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee’s expense.

242.5(1) Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

a. A description of the type of examination to which the licensee must submit.

b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.

c. The time period in which the licensee must schedule the required examination.

d. The amount of time which the licensee has to complete the examination.

e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

242.5(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

242.5(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee’s confidentiality.

242.5(4) Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

242.5(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

242.5(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians’ or health care providers’ testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

242.5(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4702B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby gives Notice of Intended Action to amend Chapter 283, “Discipline for Social Workers,” Iowa Administrative Code.

The proposed amendment provides the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendment no later than January 3, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 3, 2006, from 10:30 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 154C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Adopt **new** rule 645—283.5(154C) as follows:

645—283.5(154C) Order for mental, physical, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee’s expense.

283.5(1) Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.

f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.

g. A requirement that the licensee communicate with the board regarding the status of the examination.

h. A concise statement of the facts relied on by the board to order the evaluation.

283.5(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

283.5(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee’s confidentiality.

283.5(4) Closed hearing. Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

283.5(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

283.5(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians’ or health care providers’ testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

283.5(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 4701B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.24, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

The rules in Chapter 88 describe the eligibility of free clinics and health care providers, providing free health care ser-

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vices through qualified programs, to be defended and indemnified by the state of Iowa. These amendments provide eligibility to optometrists, podiatrists, physical therapists, occupational therapists, respiratory therapists, and emergency medical care providers. These amendments add the professions to definitions of “charitable organizations” and “volunteer health care provider” and to other areas of Chapter 88 listing each profession that is eligible to apply for protection through the Volunteer Health Care Provider Program. These amendments include application procedures and covered services for new professions. The amendments also provide for expansion of free clinic liability coverage to include the care provided by a health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa.

Any interested person may make written suggestions or comments on the proposed amendments prior to December 27, 2005. Such written materials should be directed to Julie McMahon, Director, Division of Health Promotion and Chronic Disease Prevention, Iowa Department of Public Health, Lucas State Office Building, 312 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)242-6384; E-mail jmcmahon@idph.state.ia.us.

Persons who wish to convey their views orally should contact the Division of Health Promotion and Chronic Disease Prevention at (515)281-3733 or at the Division offices on the fourth floor of the Lucas State Office Building.

Also, there will be a public hearing on December 27, 2005, from 1 to 2 p.m. in Room 517, Fifth Floor, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

These amendments are intended to implement 2005 Iowa Acts, House File 620.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **641—88.1(135)**, definitions of “charitable organization” and “volunteer health care provider,” as follows:

“Charitable organization” means a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of ~~health care services~~ *chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services* to children and to serve as a funding mechanism for provision of ~~health care services~~ *chiropractic, dental, medical, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services*, including but not limited to immunizations, to children in this state.

“Volunteer health care provider” means *an emergency medical care provider certified pursuant to Iowa Code chapter 147A; a physician licensed pursuant to Iowa Code chapter*

148, 150 or 150A; a physical therapist licensed pursuant to Iowa Code chapter 148A; an occupational therapist licensed pursuant to chapter 148B; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a podiatrist licensed pursuant to Iowa Code chapter 149; a chiropractor licensed pursuant to Iowa Code chapter 151; a respiratory therapist licensed pursuant to chapter 152B; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; an optometrist licensed pursuant to Iowa Code chapter 154; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; or a pharmacist licensed pursuant to Iowa Code chapter 155A, who has executed an eligibility agreement with the VHCPP.

ITEM 2. Amend subrule **88.3(1)**, paragraph “a,” as follows:

a. The applicant shall hold an active unrestricted license, *registration, or certification* to practice in Iowa under Iowa Code chapter *147A, 148, 148A, 148B, 148C, 149, 150, 150A, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, or 155A*. The applicant shall provide a sworn statement attesting that the license, *registration, or certification* to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the health care provider by any professional licensing, *registering, or certifying* authority or health care facility, including any voluntary surrender of license, *registration, or certification* or other agreement involving the health care provider's license, *registration, or certification* to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed against the health care provider. The statement provided by a pharmacist volunteer health care provider shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

(1) Every physician and dentist shall authorize the release of information allowing certified statements to be sent to the board of medical examiners or board of dental examiners from the National Practitioner Data Bank, the Federation of State Medical Boards Disciplinary Data Bank, or State Dental Boards Disciplinary Data Bank, as appropriate, setting forth any malpractice judgment or award or disciplinary action involving the physician or dentist.

(2) Every *physical therapist, occupational therapist, physician assistant, podiatrist, chiropractor, respiratory therapist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, optometrist, chiropractor, psychologist, bachelor social worker, master social worker, independent social worker, marriage and family therapist, and mental health counselor, physician assistant, psychologist, licensed practical nurse, registered nurse, and advanced registered nurse practitioner* shall request certified statements directly from the National Practitioner Data Bank—Health Care Integrity and Protection Data Bank setting forth any malpractice judgment or award or disciplinary action involving the requester, shall pay the cost for such certified statements and shall submit such certified statements as part of the VHCPP application. Every chiropractor shall also authorize the release of information allowing certified state-

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ments to be sent to the board of chiropractic examiners from the Chiropractic Information Network/Board Action Database (CINBAD) setting forth any malpractice judgment or award or disciplinary action involving the chiropractor.

(3) Every pharmacist shall authorize the release of information allowing certified statements to be sent to the board of pharmacy examiners from the National Association of Boards of Pharmacy setting forth any disciplinary action involving the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, and the pharmacist shall pay the cost for such certified statements. Every pharmacist shall also authorize the release of information from the pharmacist's malpractice insurance carrier to be sent to the board of pharmacy examiners, and the pharmacist shall pay the cost for such release. Information released from the pharmacist's malpractice insurance carrier shall include either the history and details of all claims that have been filed on behalf of the pharmacist or any pharmacy in which the pharmacist has ever been owner, partner, or officer, or confirmation that there have been no claims.

(4) *Every emergency medical care provider shall authorize the release of information allowing information to be sent from the bureau of emergency medical services to the Iowa department of public health volunteer health care provider program setting forth any malpractice judgment or award or disciplinary action involving the requester, and shall authorize the release of information allowing such information to be shared with the bureau of emergency medical services by licensing entities within and outside Iowa.*

ITEM 3. Amend subrule **88.3(2)**, paragraph “c,” subparagraph (2), as follows:

(2) Holds current professional liability insurance coverage and an active unrestricted license, *registration, or certification* to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 150, 150A, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, or 155A.

ITEM 4. Amend subrule **88.5(1)**, paragraph “d,” by adding **new** subparagraphs (15) to (20) as follows:

(15) Physical therapists for: interpretation of performances, tests, and measurements; evaluation and treatment of human capabilities and impairments; use of physical agents, therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment; establishment and modification of physical therapy program, treatment planning, and patient instruction/education.

(16) Occupational therapists for: evaluation and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability, or the aging process.

(17) Optometrists for: examinations, diagnosis and treatment of the human eye and adnexa, health education, and health maintenance.

(18) Podiatrists for: examinations, diagnosis and treatment, health education, health maintenance, minor surgical procedures.

(19) Respiratory therapists for: diagnostic and therapeutic use of administration of medical gases, aerosols, and humidification, not including general anesthesia; pharmacologic agents relating to respiratory care procedures; bronchopulmonary hygiene; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of cardiopulmonary abnormalities; and pulmonary function testing.

(20) Emergency medical care providers for: provision of emergency medical care as authorized in 641 IAC 131.3(147A).

ITEM 5. Amend rule 641—88.6(135), introductory paragraph, as follows:

641—88.6(135) Defense and indemnification. The state shall defend and indemnify a volunteer health care provider or a free clinic for a claim arising from the VHCPP only to the extent provided by Iowa Code chapter 669 and Iowa Code Supplement section 135.24. Persons or entities other than the participating volunteer health care provider or free clinic are not considered state employees or state agencies under Iowa Code chapter 669. Defense and indemnification of the volunteer health care provider *or a free clinic* under Iowa Code chapter 669 and Iowa Code Supplement section 135.24 shall occur only if all of the following requirements are met:

ITEM 6. Amend subrule 88.6(6) as follows:

88.6(6) The volunteer health care provider, free clinic, or sponsor program is eligible and registered as provided in rule 88.3(135) *or the care is provided by a health care provider who holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 150, 150A, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, or 155A and has been approved by the VHCPP.*

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt-hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2005 by each taxpayer to determine the tax due for each taxpayer in the 2006-2007 fiscal year.

2005 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00006461
3201	Algona Municipal Utilities	0.00027701
3205	Alta Municipal Power Plant	0.00009747
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00014399
3209	Atlantic Municipal Utilities	0.00024840
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00010262
3211	Bancroft Municipal Utilities	0.00089101
3213	Bellevue Municipal Utilities	0.00009854
3228	Bigelow Municipal Electric Utility	0.00220760

REVENUE DEPARTMENT(cont'd)

3229	Bloomfield Municipal Electric Utility	0.00003352	3277	Laurens Municipal Utilities	0.00034020
3075	Breda Mun. Electric System	0.00000000	3109	Lenox Mun. Light & Power	0.00044973
3076	Brooklyn Municipal Utilities	0.00165903	3110	Livermore Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	0.00000306	3111	Long Grove Mun. Elec./Water	0.00000000
3217	Burt Municipal Electric Utility	0.00000190	3282	Manilla Municipal Elec. Utilities	0.00010356
3077	Callender Electric	0.00000000	3112	Manning Municipal Electric	0.00026539
3078	Carlisle Municipal Utilities	0.00000000	3284	Mapleton Municipal Utilities	0.00009672
3079	Cascade Municipal Utilities	0.00139652	3285	Maquoketa Municipal Electric	0.00004891
3221	Cedar Falls Municipal Elec. Utility	0.00033402	3288	McGregor Municipal Utilities	0.00000795
3068	City of Afton	0.00000000	3291	Milford Municipal Utilities	0.00016326
3072	City of Aplington	0.00000000	3114	Montezuma Municipal Light & Power	0.00000000
3082	City of Dike	0.00000000	3115	Mount Pleasant Municipal Utilities	0.00000000
3088	City of Estherville	0.00000000	3293	Muscatine Municipal Utilities	0.00009555
3089	City of Fairbank	0.00000000	3116	Neola Light & Water System	0.00000000
3090	City of Farnhamville	0.00000000	3297	New Hampton Municipal Light Plant	0.00009962
3230	City of Fredericksburg	0.00000936	3298	New London Municipal Utility	0.00052973
3106	City of Larchwood	0.00000000	3304	Ogden Municipal Utilities	0.00006342
3107	City of Lawler	0.00000000	3234	Onawa Municipal Utilities	0.00010932
3108	City of Lehigh	0.00000000	3117	Orange City Municipal Utilities	0.00000000
3113	City of Marathon	0.00000000	3118	Orient Municipal Utilities	0.00000000
3311	City of Pella	0.00007160	3307	Osage Municipal Utilities	0.00005051
3125	City of Renwick	0.00000000	3309	Panora Municipal Electric Utility	0.00010592
3129	City of Sergeant Bluff	0.00000000	3119	Paton Municipal Utilities	0.00000000
3139	City of Westfield	0.00000000	3120	Paullina Municipal Utilities	0.00000000
3143	City of Woolstock	0.00000000	3121	Pocahontas Municipal Utilities	0.00000000
3236	Coggon Municipal Light Plant	0.00005311	3122	Preston Municipal Utilities	0.00000000
3237	Coon Rapids Municipal Utilities	0.00042603	3315	Primghar Municipal Light Plant	0.00001803
3242	Corning Municipal Utilities	0.00033130	3123	Readlyn Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000	3124	Remsen Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384	3318	Rock Rapids Municipal Utilities	0.00000479
3081	Dayton Light & Power	0.00000000	3126	Rockford Municipal Light Plant	0.00000000
3244	Denison Municipal Utilities	0.00001109	3127	Sabula Municipal Utilities	0.00000000
3245	Denver Municipal Electric Utility	0.00006156	3128	Sanborn Municipal Light & Plant	0.00000000
3083	Durant Municipal Electric Plant	0.00000000	3130	Shelby Municipal Utilities	0.00000000
3084	Dysart Municipal Utilities	0.00000000	3131	Sibley Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00123246	3321	Sioux Center Municipal Utilities	0.00000099
3087	Ellsworth Municipal Utilities	0.00000000	3323	Southern Minnesota Mun. Power	0.00000000
3091	Fonda Municipal Electric	0.00000000	3324	Spencer Municipal Utilities	0.00010190
3252	Fontanelle Municipal Utilities	0.00036448	3132	Stanhope Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	0.00000000	3360	Stanton Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000204	3326	State Center Municipal Light Plant	0.00034380
3093	Gowrie Municipal Utilities	0.00161035	3327	Story City Municipal Electric Utility	0.00010950
3256	Graettinger Municipal Light Plant	0.00028571	3134	Stratford Municipal Utilities	0.00000000
3094	Grafton Municipal Utilities	0.00000000	3135	Strawberry Point Electric Utility	0.00000000
3258	Grand Junction Municipal Utilities	0.00000456	3136	Stuart Municipal Utilities	0.00128625
3095	Greenfield Municipal Utilities	0.00114995	3328	Sumner Municipal Light Plant	0.00021044
3096	Grundy Center Light & Power	0.00022173	3330	Tipton Municipal Utilities	0.00149179
3232	Guttenberg Municipal Electric	0.00002873	3332	Traer Municipal Utilities	0.00053159
3263	Harlan Municipal Utilities	0.00137185	3337	Villisca Municipal Power Plant	0.00023515
3097	Hartley Municipal Utilities	0.00000000	3137	Vinton Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000	3138	Wall Lake Municipal Utilities	0.00000000
3099	Hinton Municipal Electric/Water	0.00010345	3338	Waverly Light & Power	0.00077560
3267	Hopkinton Municipal Utilities	0.00000826	3342	Webster City Municipal Utilities	0.00033602
3100	Hudson Municipal Utilities	0.00000000	3345	West Bend Municipal Power Plant	0.00088027
3101	Independence Light & Power	0.00000000	3346	West Liberty Municipal Electric Util.	0.00000671
3271	Indianola Municipal Utilities	0.00000787	3347	West Point Municipal Utility System	0.00009639
3102	Keosauqua Light & Power	0.00000000	3140	Whittemore Municipal Utilities	0.00000000
3103	Kimballton Municipal Utilities	0.00000000	3141	Wilton Municipal Light & Power	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000	3351	Winterset Municipal Utilities	0.00163323
3105	Lake Park Municipal Utilities	0.00000000	3142	Woodbine Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00016566			
3274	Lamoni Municipal Utilities	0.00147144			
3276	LaPorte City Utilities	0.00000913			

REVENUE DEPARTMENT(cont'd)

IOU's – ELECTRIC		DELIVERY TAX RATE	2005 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA		DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00049316	CO. #	MUNICIPAL GAS	
7248	Eldridge Electric & Water Utilities	0.00062936	5021	Bedford Municipal Gas	0.00000000
7354	Geneseo Municipal Utilities	0.00000000	5215	Brighton Gas	0.07379652
7270	IES Utilities	0.00237888	5023	Brooklyn Municipal Gas	0.00000000
7272	Interstate Power	0.00104577	5024	Cascade Municipal Gas	0.00000000
7289	MidAmerican Energy	0.00264702	5025	Cedar Falls Municipal Gas	0.00000000
7296	Nebraska Public Power District	0.00000000	5022	City of Bloomfield	0.00000000
7302	Northwestern Corporation	0.00000000	5026	City of Clearfield	0.00000000
7305	Omaha Public Power District	0.00133008	5028	City of Everly	0.00000000
7334	Union Electric	0.00000000	5029	City of Fairbank	0.00000000
			5238	Coon Rapids Municipal Gas	0.00002413
CO. #	REC's	DELIVERY TAX RATE	5241	Corning Municipal Gas	0.00000112
4319	Access Energy Coop	0.00080407	5027	Emmetsburg Municipal Gas	0.00000000
4203	Allamakee Clayton Electric Coop	0.00093586	5030	Gilmore City Municipal Gas	0.00000000
4208	Atchison–Holt Electric Coop	0.00106203	5031	Graettinger Municipal Gas	0.00000000
4214	Boone Valley Electric Coop	0.00090381	5032	Guthrie Center Municipal Gas	0.00000000
4218	Butler County REC	0.00136469	5033	Harlan Municipal Gas	0.00000000
4219	Calhoun County Electric Coop	0.00141547	5034	Hartley Municipal Gas	0.00000000
4220	Cass Electric Coop	0.00004637	5035	Hawarden Municipal Gas	0.00000000
4224	Central Iowa Power Coop	0.00000000	5036	Lake Park Municipal Gas	0.00000000
4225	Chariton Valley Electric Coop	0.00116694	5275	Lamoni Municipal Gas	0.00091201
4235	Clarke Electric Coop	0.00295748	5037	Lenox Municipal Gas	0.00000000
4287	Consumers Energy	0.00223198	5038	Lineville City Natural Gas	0.00000000
4240	Corn Belt Power Coop	0.00000000	5039	Lorimor Municipal Gas	0.00000000
4246	East–Central Iowa REC	0.00212168	5281	Manilla Municipal Gas	0.00326276
4247	Eastern Iowa Light & Power	0.00071315	5283	Manning Municipal Gas	0.00021722
4250	Farmers Electric Coop – Greenfield	0.00237767	5040	Montezuma Natural Gas	0.00000000
4249	Farmers Electric Coop – Kalona	0.00043783	5041	Morning Sun Municipal Gas	0.00000000
4251	Federated Rural Electric Association	0.00046380	5042	Moulton Municipal Gas	0.00000000
4253	Franklin Rural Electric Coop	0.00075560	5306	Osage Municipal Gas	0.00003376
4254	Freeborn–Mower Cooperative	0.00099628	5043	Prescott Municipal Gas	0.00000000
4255	Glidden Rural Electric Coop	0.00065359	5044	Preston Municipal Gas	0.00000000
4259	Grundy County REC	0.00061523	5055	Remsen Municipal Gas	0.00000000
4260	Grundy Electric Cooperative	0.00055899	5317	Rock Rapids Municipal Gas	0.00007706
4261	Guthrie County REC	0.00210418	5056	Rolfe Municipal Gas	0.00000000
4262	Hancock Co. REC	0.00126431	5057	Sabula Municipal Gas	0.00000000
4265	Harrison County REC	0.00131010	5058	Sac City Municipal Gas	0.00000000
4266	Hawkeye Tri–County Electric Coop	0.00076862	5059	Sanborn Municipal Gas	0.00000000
4223	Heartland Power Coop	0.00053811	5060	Sioux Center Municipal Gas	0.00000000
4268	Humboldt County REC	0.00099957	5061	Tipton Municipal Gas	0.00000000
4273	Iowa Lakes Electric Coop	0.00088390	5063	Waukeke Municipal Gas	0.00000000
4279	Linn County REC	0.00170794	5340	Wayland Municipal Gas	0.00307740
4280	Lyon Rural Electric Coop	0.00073776	5064	Wellman Municipal Gas	0.00000000
4286	Maquoketa Valley Electric Coop	0.00221262	5344	West Bend Municipal Gas	0.00002165
4290	Midland Power Cooperative	0.00199265	5065	Whittemore Municipal Gas	0.00000000
4299	Nishnabotna Valley REC	0.00083218	5349	Winfield Municipal Gas	0.00051657
4300	North West Rural Electric Coop	0.00055792	5066	Woodbine Gas	0.00000000
4301	Northwest Iowa Power Coop	0.00000000			
4308	Osceola Electric Coop	0.00045318	CO. #	IOU's – GAS	DELIVERY TAX RATE
4310	Pella Cooperative Electric	0.00194961	5204	Allerton Gas	0.01588131
4313	Pleasant Hill Community Line	0.00028048	5270	IES Utilities	0.01204344
4316	Rideta Electric Coop	0.00292371	5272	Interstate Power	0.01488435
4320	Sac County Rural Electric Coop	0.00110413	5289	MidAmerican Energy	0.01103529
4322	Southern Iowa Electric Coop	0.00151197	5312	Peoples Natural Gas	0.00927983
4379	Southwest Iowa Service Coop	0.00289110	5335	United Cities Gas	0.00647805
4329	T.I.P. Rural Electric Coop	0.00217955			
4333	Tri County Electric Coop	0.00122443			
4336	United Electric Coop	0.00112324			
4348	Western Iowa Power Coop	0.00098068			
4352	Woodbury County REC	0.00122711			
4353	Wright Co. REC	0.00049077			

REVENUE DEPARTMENT(cont'd)

2005 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES					
CO. #	COMPANY	REPLACEMENT TAX RATE			
3226	Akron Municipal Utilities	0.00862708	3096	Grundy Center Light & Power	0.00141396
3201	Algona Municipal Utilities	0.00196210	3232	Guttenberg Municipal Electric	0.00663298
3205	Alta Municipal Power Plant	0.00214553	3263	Harlan Municipal Utilities	0.00277433
3069	Alta Vista Municipal Utilities	0.00000000	3097	Hartley Municipal Utilities	0.00045299
3070	Alton Municipal Light & Power	0.00166922	3098	Hawarden Municipal Utility	0.01666363
3207	Ames Municipal Electric System	*	3099	Hinton Municipal Electric/Water	0.00121388
3071	Anita Municipal Utilities	0.00241193	3267	Hopkinton Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00413871	3100	Hudson Municipal Utilities	0.01363786
3209	Atlantic Municipal Utilities	0.00238021	3101	Independence Light & Power	0.00195968
3073	Auburn Municipal Utility	0.01553816	3271	Indianola Municipal Utilities	0.00237967
3074	Aurelia Municipal Electric Utility	0.00136019	3102	Keosauqua Light & Power	0.00000000
3211	Bancroft Municipal Utilities	0.00758850	3103	Kimballton Municipal Utilities	0.00000000
3213	Bellevue Municipal Utilities	*	3104	Lake Mills Municipal Utilities	0.00343839
3229	Bloomfield Municipal Electric Utility	*	3105	Lake Park Municipal Utilities	0.00169590
3075	Breda Municipal Electric System	0.00000000	3233	Lake View Municipal Utilities	0.00918589
3076	Brooklyn Municipal Utilities	0.00000000	3274	Lamoni Municipal Utilities	0.00198629
3216	Buffalo Municipal Electric System	*	3276	LaPorte City Utilities	0.00146410
3217	Burt Municipal Electric Utility	0.00231553	3277	Laurens Municipal Utilities	0.00456422
3077	Callender Electric	*	3109	Lenox Municipal Light & Power	0.00041154
3078	Carlisle Municipal Utilities	*	3110	Livermore Municipal Utilities	0.01020650
3079	Cascade Municipal Utilities	0.00000000	3111	Long Grove Mun. Elec./Water	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00310838	3282	Manilla Municipal Elec. Utilities	0.00322132
3068	City of Afton	0.00812246	3112	Manning Municipal Electric	0.00141811
3072	City of Aplington	0.00863058	3284	Mapleton Municipal Utilities	0.00253260
3082	City of Dike	0.01202664	3285	Maquoketa Municipal Electric	0.00122832
3088	City of Estherville	0.01452347	3288	McGregor Municipal Utilities	0.00128445
3089	City of Fairbank	0.00851523	3291	Milford Municipal Utilities	*
3090	City of Farnhamville	0.00000000	3114	Montezuma Municipal Light & Power	0.00152102
3230	City of Fredericksburg	0.01789635	3115	Mount Pleasant Municipal Utilities	0.00064213
3106	City of Larchwood	*	3293	Muscatine Municipal Utilities	0.00000000
3107	City of Lawler	0.00630957	3116	Neola Light & Water System	0.00000000
3108	City of Lehigh	0.00123584	3297	New Hampton Municipal Light Plant	0.00242480
3113	City of Marathon	*	3298	New London Municipal Utility	0.00378301
3311	City of Pella	0.00313149	3304	Ogden Municipal Utilities	0.00213160
3125	City of Renwick	0.00000000	3234	Onawa Municipal Utilities	0.00185046
3129	City of Sergeant Bluff	*	3117	Orange City Municipal Utilities	0.00160814
3139	City of Westfield	*	3118	Orient Municipal Utilities	0.00000000
3143	City of Woolstock	0.00000000	3307	Osage Municipal Utilities	0.00025285
3236	Coggon Municipal Light Plant	0.00000000	3309	Panora Municipal Electric Utility	0.00053444
3237	Coon Rapids Municipal Utilities	0.00283768	3119	Paton Municipal Utilities	0.00315004
3242	Corning Municipal Utilities	0.00000000	3120	Paullina Municipal Utilities	0.00584133
3080	Corwith Municipal Utilities	0.00000000	3121	Pocahontas Municipal Utilities	0.00824335
3243	Danville Municipal Electric Utility	0.00144111	3122	Preston Municipal Utilities	0.02890455
3081	Dayton Light & Power	0.00253752	3315	Primghar Municipal Light Plant	0.00219378
3244	Denison Municipal Utilities	0.00188211	3123	Readlyn Municipal Utilities	0.00000000
3245	Denver Municipal Electric Utility	0.00591202	3124	Remsen Municipal Utilities	0.00285198
3083	Durant Municipal Electric Plant	0.00000000	3318	Rock Rapids Municipal Utilities	0.00412697
3084	Dysart Municipal Utilities	0.00352177	3126	Rockford Municipal Light Plant	0.00000000
3085	Earlville Municipal Utilities	*	3127	Sabula Municipal Utilities	0.00085029
3086	Eldridge Electric & Water Utility	*	3128	Sanborn Municipal Light & Plant	0.00288012
3087	Ellsworth Municipal Utilities	0.00750491	3130	Shelby Municipal Utilities	*
3091	Fonda Municipal Electric	0.01403311	3131	Sibley Municipal Utilities	0.00587648
3252	Fontanelle Municipal Utilities	0.00173708	3321	Sioux Center Municipal Utilities	0.00237828
3092	Forest City Municipal Utilities	0.00236767	3324	Spencer Municipal Utilities	0.00243469
3231	Glidden Municipal Electric Utility	0.01265810	3132	Stanhope Municipal Utilities	0.01600637
3093	Gowrie Municipal Utilities	0.00049763	3133	Stanton Municipal Utilities	0.00152543
3256	Graettinger Municipal Light Plant	0.00307514	3326	State Center Municipal Light Plant	0.00026686
3094	Grafton Municipal Utilities	0.02602994	3327	Story City Municipal Electric Utility	0.00000000
3258	Grand Junction Municipal Utilities	*	3134	Stratford Municipal Utilities	0.00500519
3095	Greenfield Municipal Utilities	0.00277443	3135	Strawberry Point Electric Utility	*
			3136	Stuart Municipal Utilities	0.00238922
			3328	Sumner Municipal Light Plant	*
			3330	Tipton Municipal Utilities	*

REVENUE DEPARTMENT(cont'd)

3332	Traer Municipal Utilities	0.00343845
3337	Villisca Municipal Power Plant	0.00000000
3137	Vinton Municipal Utilities	0.00457062
3138	Wall Lake Municipal Utilities	0.01080020
3338	Waverly Light & Power	0.00524770
3342	Webster City Municipal Utilities	0.00143972
3345	West Bend Municipal Power Plant	0.00250779
3346	West Liberty Municipal Electric Util.	0.00530808
3347	West Point Municipal Utility System	0.00000000
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	*
3142	Woodbine Municipal Utilities	0.00085762

* No rate provided to the Department by the Municipal

5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	0.06497753

* No rate provided to the Department by the Municipal

ARC 4723B

**SCHOOL BUDGET REVIEW
COMMITTEE[289]**

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.9, the State Board of Education hereby gives Notice of Intended Action to amend Chapter 6, “Duties and Operational Procedures,” Iowa Administrative Code.

The proposed amendments implement Iowa Code subsection 257.31(4) by requiring all school districts to implement the generally accepted accounting principles.

These amendments do not provide for waivers in specified situations. The Department has provided general procedures for requesting an exception at 289—Chapter 8.

A public hearing will be held at 1 p.m. on January 5, 2006, over the Iowa Communications Network (ICN). The origination site of the public hearing will be the Second Floor ICN Room, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. The following sites will be available by ICN:

Keystone AEA 1 1400 2nd Street NW Elkader	Area Education Agency 4 1382 4th Avenue NE Sioux Center
Emerson Building 316 North 3rd St., Rm. 101 Eagle Grove	Iowa Western Comm. College 2700 College Rd., Looft Hall – 1 Council Bluffs
Green Valley AEA 14 1405 N. Lincoln, Turner Rm. Creston	Prairie Lakes AEA 8 Highway 18 & 2nd St. Cylinder
Area Education Agency 267 91848 265th St., State Room Clear Lake	Heartland AEA 11 6500 Corporate Drive Johnston
Burlington High School 421 Terrace Drive Burlington	Indian Hills Comm. College 651 Indian Hills Drive, #3 Ottumwa
Iowa Valley Comm. College 3405 S. Center Street R. M. Wolfe Education Center Marshalltown	Mississippi Bend AEA 9 729 21st Street Louisa Room Bettendorf
West High School, Rm. 223 2001 Casselman Sioux City	Kirkwood Comm. College 6301 Kirkwood Blvd. SW, Rm. 32B Cedar Rapids

Interested individuals may submit written, oral or electronic comments before January 5, 2006, by addressing them to Su McCurdy, Administrative Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146; E-mail su.mccurdy@iowa.gov; or by fax at (515)281-7700.

These amendments are intended to implement Iowa Code section 257.31(4).

**2005 MUNICIPAL NATURAL GAS TRANSFER
REPLACEMENT TAX RATES**

CO. #	COMPANY	REPLACEMENT TAX RATE
5021	Bedford Municipal Gas	0.10696664
5215	Brighton Gas	0.00000000
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00527405
5022	City of Bloomfield	0.01296061
5026	City of Clearfield	0.00000000
5028	City of Everly	*
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00207480
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.04137783
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.01224857
5032	Guthrie Center Municipal Gas	0.00003254
5033	Harlan Municipal Gas	0.94488283
5034	Hartley Municipal Gas	0.00636538
5035	Hawarden Municipal Gas	0.01546902
5036	Lake Park Municipal Gas	0.00529433
5275	Lamoni Municipal Gas	0.00638443
5037	Lenox Municipal Gas	0.34927745
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00753674
5281	Manilla Municipal Gas	0.01150840
5283	Manning Municipal Gas	0.02485333
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.10536217
5306	Osage Municipal Gas	0.02193802
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.50001519
5055	Remsen Municipal Gas	0.40884996
5317	Rock Rapids Municipal Gas	0.01354647
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.01238463
5058	Sac City Municipal Gas	0.05379786
5059	Sanborn Municipal Gas	0.02804774
5060	Sioux Center Municipal Gas	0.01047813
5061	Tipton Municipal Gas	*
5067	Wall Lake Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.02319461
5340	Wayland Municipal Gas	0.21829295
5064	Wellman Municipal Gas	0.03010852
5344	West Bend Municipal Gas	0.02923525
5065	Whittemore Municipal Gas	*

SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

Amend rule 289—6.5(257) by renumbering subrules **6.5(1)** to **6.5(4)** as **6.5(2)** to **6.5(5)** and adopting the following **new** subrule 6.5(1):

6.5(1) Generally accepted accounting principles. All school districts shall budget on the generally accepted accounting principles (GAAP) basis of budgeting beginning with fiscal year 2006-2007. In order to effect this change in accounting/budgeting methods, the SBRC shall direct the departments of education and management to adjust calculations from the 2004-2005 certified annual report (CAR) related to the 2004-2005 unspent balances carried forward to the 2005-2006 unspent balances in order to hold districts harmless.

a. If the net amount of actual expenditures less miscellaneous income on the GAAP basis is greater than the net amount of actual expenditures less miscellaneous income on the non-GAAP basis, the SBRC shall grant modified allowable growth in an amount equal to the excess of the net amount on the GAAP basis over the net amount on the non-GAAP basis.

b. If the net amount of actual expenditures less miscellaneous income on the GAAP basis is less than or equal to the net amount of actual expenditures less miscellaneous income on the non-GAAP basis or if the district budgeted on the GAAP basis in any previous fiscal year, the district does not qualify to receive modified allowable growth under paragraph "a."

c. Any district that determines that the amount of modified allowable growth granted for the change in accounting/budgeting methods is not adequate may make a request for additional modified allowable growth pursuant to Iowa Code section 257.31 at the May 2006 regular meeting of the SBRC.

d. Districts shall not be required to amend their 2005-2006 certified budgets for this change in accounting/budgeting methods unless the district would have had to amend its budget without regard to the change in accounting/budgeting methods.

ARC 4728B**SOIL CONSERVATION
DIVISION[27]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby gives Notice of In-

tended Action to amend Chapter 11, "Conservation Practices Revolving Loan Fund," Iowa Administrative Code.

These amendments define the roles and responsibilities of financial partners within the conservation practices revolving loan fund, revise the loan fund allocation process and provide clarification to the existing rules.

These amendments do not contain a waiver provision, but are subject to the Division's general waiver requirements.

Any interested person may make written suggestions or comments on these proposed amendments. Such written materials should be directed to the Division of Soil Conservation, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be faxed to the Division at (515)281-6170 or E-mailed to Tony.Toigo@idals.state.ia.us. Comments and suggestions must be received by the Division no later than 4 p.m. on Tuesday, January 10, 2006.

A public hearing will be held on Tuesday, January 10, 2006, at 2 p.m. in the Second Floor Conference Room of the Wallace State Office Building, 502 E. 9th St., Des Moines, Iowa. Comments presented at the hearing may be offered either orally or in writing.

These amendments are intended to implement Iowa Code chapter 161A.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4729B**. The content of that submission is incorporated by reference.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

December 1, 2004 — December 31, 2004	6.00%
January 1, 2005 — January 31, 2005	6.25%
February 1, 2005 — February 28, 2005	6.25%
March 1, 2005 — March 31, 2005	6.25%
April 1, 2005 — April 30, 2005	6.25%
May 1, 2005 — May 31, 2005	6.50%
June 1, 2005 — June 30, 2005	6.25%
July 1, 2005 — July 31, 2005	6.25%
August 1, 2005 — August 31, 2005	6.00%
September 1, 2005 — September 30, 2005	6.25%
October 1, 2005 — October 31, 2005	6.00%
November 1, 2005 — November 30, 2005	6.25%
December 1, 2005 — December 31, 2005	6.50%

ARC 4712B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 217.6, 234.6, 239B.4(4), and 249A.4, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Chapter 11, "Overpayments," Chapter 13, "Program Evaluation," Chapter 40, "Application for Aid," Chapter 41, "Granting Assistance," Chapter 50, "Application for Assistance," Chapter 65, "Food Assistance Program Administration," Chapter 75, "Conditions of Eligibility," Chapter 76, "Application and Investigation," Chapter 83, "Medicaid Waiver Services," Chapter 170, "Child Care Services," and Chapter 177, "In-Home Health-Related Care," Iowa Administrative Code.

These amendments update form references for various income maintenance programs. The Department is involved in ongoing work to simplify forms and to streamline processes.

As part of this project, the Department has redesigned the former Public Assistance Application and renamed it "Health and Financial Support Application." As its name indicates, the form is used to apply for several different Department programs, either singly or in combination. The revised form has simpler language and color coding to indicate which sections apply to which programs and is available in both English and Spanish.

Another part of the forms redesign effort is to create review forms that will gather all of the information necessary for recertifying eligibility for a particular program. These forms are used instead of the full-blown application form to limit the burden on the clients. The latest product of these efforts is Forms 470-3118 and 470-3118(S), Medicaid Review, which will be used:

- As a review form for SSI-related Medicaid and State Supplementary Assistance and for recertifications for FMAP-related and SSI-related Medically Needy groups, instead of the Health Services Application, and
- For reporting income on a six-month basis for the coverage group Medicaid for employed people with disabilities (MEPD), instead of Form 470-3693, Earned Income Statement for Premiums.

These amendments reflect the use of Form 470-3951 or 470-3951(S), Authorization to Obtain or Release Health Care Information, instead of Form 470-2467, Authorization for Source to Release Information to the Department of Human Services, to collect information needed for disability determinations. This change was made to be in compliance with requirements of the Health Insurance Portability and Accountability Act.

These amendments also reflect the existence of Spanish translations, usually indicated by the suffix (S), of the following forms:

- 470-0487, Appeal and Request for Hearing
- 470-3624, Child Care Assistance Application
- 470-4026, Food Assistance Interim Report
- 470-2927, Health Services Application
- 470-0486, Notice of Decision
- 470-2663, Notice of Decision/Quarterly Income Report
- 470-2580, Presumptive Medicaid Eligibility Notice of Decision
- 470-0455, Public Assistance Eligibility Report

- 470-0169, Requirements of Support Enforcement
- 470-2881, Review/Recertification Eligibility Document
- 470-0499, Ten-Day Report of Change

The Department is under federal mandate, based on Section 601 of Title VI of the Civil Rights Act of 1964, to provide for communication with people with limited English proficiency. Specifically, when a non-English-speaking group reaches the threshold of 10 percent of the population in the local area, the Department is responsible for obtaining translations of written materials, including vital documents such as application forms, enrollment forms, letters or notices about eligibility or a change in benefits, and forms that require a response from the client. The Spanish-speaking population has reached this threshold in some areas of the state.

These amendments also reflect that certain forms are available in a version generated by an automated data processing system (usually the Automated Benefit Calculation System) and in a manual version, usually indicated by the suffix (M).

These amendments do not provide for waivers in specified situations because these changes are technical in nature and are necessary for the efficient administration of Department programs.

The Council on Human Services adopted these amendments on November 9, 2005.

The Department finds that notice and public participation are unnecessary in that these amendments affect only the forms used to carry out the Department's existing policies and procedures and do not impose any new responsibilities on the Department's customers. The new application and review form have both been field-tested with Department customers and changes have been incorporated in response to customer comments. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit on the public by focusing more clearly on the information required, making forms more similar across programs, and streamlining the review process. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code sections 234.6 and 249A.4.

These amendments became effective December 1, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend 441—Chapter 7 as follows:

Amend subrule **7.5(10)**, paragraph "**b**," as follows:

b. Subject to the time limits described in subrule 7.5(4), a person's right to appeal the recovery of an overpayment through benefit reduction, but not the existence, computation, or amount of an overpayment, begins when the person receives Form 470-0485, ~~or~~ 470-0486, *or 470-0486(S)*, Notice of Decision, informing the person that benefits will be reduced to recover a food ~~stamp~~ *assistance* overpayment.

Amend subrule **7.7(2)**, paragraph "**k**," as follows:

k. The agency terminates, reduces, or suspends benefits or makes changes based on the completed Form *470-0454*, 470-0455, ~~or Form~~ 470-3719(S), Public Assistance Eligibility Report, *or Form 470-2881, 470-2881(M), 470-4083*

HUMAN SERVICES DEPARTMENT[441](cont'd)

(Spanish), or 470-4083(M), Review/Recertification Eligibility Document, as described at 441—paragraph 40.27(1)“b.”

Amend subrule 7.8(2), introductory paragraph, as follows:

7.8(2) Filing the appeal. The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), ~~part I~~, Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food ~~stamp~~ *assistance* appeals) and has been communicated to the department by the appellant or appellant's representative.

Amend subrule **7.8(9)**, paragraph “a,” as follows:

a. Within one working day of receipt, complete ~~part II~~ *the worker information section* of Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and forward that form, the written appeal, the postmarked envelope, if there is one, and a copy of the notification of the proposed adverse action to the appeals section.

Amend subrule **7.9(1)**, paragraph “b,” subparagraph (2), as follows:

(2) Review/Recertification Eligibility Document, Form 470-2881, ~~or~~ 470-2881(M), 470-4083 (Spanish), or 470-4083(M).

ITEM 2. Amend rule **441—11.1(217)**, definition of “re-payment agreement,” numbered paragraph “14,” as follows:

14. Form 470-3984, ~~Demand Letter for Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.~~

ITEM 3. Amend paragraph **13.5(4)“c”** as follows:

c. Should the client refuse to authorize the department to contact an informant to verify information that is necessary for the completion of the review, collateral contacts shall still be made through use of the general release statement contained in the:

(1) ~~Public Assistance Health and Financial Support Application, Form PA-2207-0 470-0462 or PA-2230-0 470-0466 (Spanish version);~~

(2) ~~Health Services Application, Form PA-1107-0, 470-2927 or 470-2927(S) Application for Medical Assistance or State Supplementary Assistance;~~

(3) ~~Public Assistance Eligibility Report, Form PA-2140-0 470-0454, 470-0455, or 470-3719(S); or~~

(4) ~~Application for Food Stamps Assistance, Form FP-2101-0 470-0306 or FP-2101-1 470-0307 (Spanish version);~~

(5) ~~Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M);~~

(6) ~~Food Assistance Interim Report, Form 470-4026, 470-4026(M), or 470-4026(S).~~

ITEM 4. Strike the phrase “Public Assistance Application” and insert in lieu thereof “Health and Financial Support Application” wherever the phrase appears in rules **441—40.22(239B)** and **441—40.23(239B)**, paragraphs **41.30(3)“c”** and “d” and **65.2(1)“a”** and “c,” subrule **65.19(8)**, and rule **441—76.1(249A)**.

ITEM 5. Amend paragraph **40.22(5)“c”** as follows:

c. When eligibility factors are met, assistance shall be reinstated when a completed Public Assistance Eligibility Report, Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), or a Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), is

received by the county office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.

ITEM 6. Amend subrule 40.24(3) as follows:

40.24(3) The applicant who is subject to monthly reporting as described in 40.27(1) shall become responsible for completing Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), Public Assistance Eligibility Report, after the time of the face-to-face interview. This form shall be issued and returned according to the requirements in 40.27(4)“b.” The application process shall continue as it regards the initial two months of eligibility, but eligibility and the amount of payment for the third month and those following are dependent on the proper return of these forms. The county office shall explain to the applicant at the time of the face-to-face interview the applicant's responsibility to complete and return this form.

ITEM 7. Amend rule 441—40.27(239B) as follows:

Amend subrule 40.27(1), introductory paragraph and paragraph “b,” as follows:

40.27(1) Eligibility factors shall be reviewed at least every six months for the family investment program. A semi-annual review shall be conducted using information contained in and verification supplied with Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), Public Assistance Eligibility Report. A face-to-face interview shall be conducted at least annually at the time of a review using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document. When the client has completed a ~~Public Assistance Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish),~~ for another purpose required by the department, this form may be used as the review document for the semiannual or annual review.

b. The assistance unit subject to monthly reporting shall complete a Public Assistance Eligibility Report, Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), for each budget month, unless the assistance unit is required to complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, for that month. The Public Assistance Eligibility Report shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf. When both parents or a parent and a stepparent are in the home, both shall sign the form.

Amend subrule 40.27(3) as follows:

40.27(3) Information for semiannual reviews shall be submitted on Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), Public Assistance Eligibility Report. Information for the annual face-to-face determination interview shall be submitted on Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document. When the client has completed Form 470-0462 or Form 470-0466 (Spanish), ~~Public Assistance Health and Financial Support Application,~~ for another purpose, this form may be used as the review document for the semiannual or annual review.

a. The review form shall be signed by the payee, the payee's authorized representative, or, when the payee is incompetent or incapacitated, someone acting responsibly on the payee's behalf.

b. When both parents, or a parent and a stepparent, are in the home, both shall sign the Public Assistance Eligibility

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Report, the Review/Recertification Eligibility Document, or the ~~Public Assistance Health and Financial Support Application~~.

Amend subrule **40.27(4)**, paragraph **“b,”** as follows:

b. The recipient shall complete Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), Public Assistance Eligibility Report, or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, when requested by the county office in accordance with these rules. The form shall be supplied as needed to the recipient by the department. The department shall pay the cost of postage to return the form.

(1) When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the county office by the fifth calendar day of the report month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the county office by the seventh day of the month after the date it is mailed by the department.

(2) The county office shall supply the recipient with Form 470-0454, 470-0455, or ~~Form~~ 470-3719(S), Public Assistance Eligibility Report, or Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, on request.

(3) Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated no earlier than the last day of the budget month and accompanied by verification as required in 441—paragraphs 41.27(1)“i” and 41.27(2)“q.”

ITEM 8. Strike the phrase “Form 470-2927” and insert in lieu thereof “Form 470-2927 or 470-2927(S)” wherever the phrase appears in subrules **50.2(3)** and **75.1(30)**, paragraphs **75.1(35)“i”** to **“k”** and **75.1(40)“c,”** paragraphs **83.3(2)“a”** and **“b,”** **83.61(4)“a”** and **“b,”** **83.82(4)“a”** and **“b,”** **83.102(5)“a”** and **“b,”** and **83.123(1)“c,”** and subrule **177.4(10)**.

ITEM 9. Strike the phrase “470-2927, Health Services Application” and insert in lieu thereof “470-3118 or 470-3118(S), Medicaid Review” wherever the phrase appears in subrules **50.4(3)** and **76.7(3)**.

ITEM 10. Amend subrule **65.5(4)**, paragraph **“a,”** introductory paragraph, as follows:

a. Simplified reporting households shall complete and return Form 470-4026, 470-4026(M), or 470-4026(S), Food Assistance Interim Report, once during their certification period. A completed form is one that:

ITEM 11. Amend subrule 65.20(1) as follows:

65.20(1) Issuance of the automated Notice of Expiration will occur with the mailing of Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document, or a hand-issued Form 470-0325, Notice of Expiration.

ITEM 12. Strike the phrase “Form 470-2580” and insert in lieu thereof “Form 470-2580 or 470-2580(S)” wherever the phrase appears in subparagraphs **75.1(30)“c”(2)** and **75.1(40)“c”(3)** and subrule **76.6(5)**.

ITEM 13. Amend rule 441—75.1(249A) as follows:

Strike the phrase “Form 470-2663” and insert in lieu thereof the phrase “Form 470-2663 or 470-2663(S)” wherever the phrase appears in paragraphs **75.1(31)“h”** and **“i.”**

Amend subrule **75.1(35)**, paragraph **“l,”** subparagraph (2), as follows:

(2) For an independent determination of disability, the applicant or recipient or the applicant's or recipient's authorized representative shall submit either Form 470-2465, Disability Report for Adults, if the applicant or recipient is aged 18 or over, or Form 470-3912, Disability Report for Children, if the applicant or recipient is under the age of 18. A signed Authorization for Source to Obtain or Release Health Care Information to the Department of Human Services, Form 470-2467 470-3951 or 470-3951(S), shall be completed for each medical source listed on the disability report.

Amend subrule **75.1(39)**, paragraph **“b,”** second unnumbered paragraph, as follows:

Eligible persons with income above 150 percent of the federal poverty level are required to complete and return Form 470-3693 470-3118 or 470-3118(S), Earned Income Statement for Premium Medicaid Review, with income information during the sixth month of the annual review period to determine premium amount.

ITEM 14. Amend subrule **75.4(3)**, paragraph **“c,”** subparagraph (5), first unnumbered paragraph, as follows:

The recipient may report the change in person, by telephone, by mail or by using the Ten-Day Report of Change, Form 470-0499 or 470-0499(S), which is mailed with the Family Investment Program warrants and is issued to the client when Medicaid applications are approved, when annual reviews are completed, when a completed Ten-Day Report of Change is submitted, and when the client requests a form.

ITEM 15. Amend subrule **75.14(9)**, paragraph **“a,”** as follows:

a. ~~Prior to~~ Before requiring cooperation, the county office shall notify the applicant or recipient on Form 470-0169 or 470-0169(S), Requirements of Support Enforcement, of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination. One copy of this form shall be given to the applicant or recipient and one copy shall be signed by the applicant or recipient and the worker and filed in the case record.

ITEM 16. Amend subrule **75.20(2)**, paragraph **“b,”** first unnumbered paragraph, as follows:

The client or the client's authorized representative shall complete either Form 470-2465, Disability Report for Adults, if the client is aged 18 or over, or Form 470-3912, Disability Report for Children, if the client is under the age of 18. A signed release, Form 470-2467 470-3951 or 470-3951(S), Authorization for Source to Obtain or Release Health Care Information to the Department of Human Services, shall be completed for each medical source listed on the disability report.

ITEM 17. Amend rule 441—75.51(249A) as follows:

441—75.51(249A) Reinstatement of eligibility. Eligibility for the family medical assistance program (FMAP) and FMAP-related programs shall be reinstated without a new application when all necessary information is provided at least three working days before the effective date of cancellation and eligibility can be reestablished, except as provided in the transitional Medicaid program in accordance with subparagraph 75.1(31)“j”(2).

75.51(I) Exception to time limit. Assistance may be reinstated without a new application when all necessary information is provided after the third working day but before the effective date of cancellation and eligibility can be reestablished before the effective date of cancellation.

HUMAN SERVICES DEPARTMENT[441](cont'd)

75.51(2) *Cancellation for failure to return review form.* When all eligibility factors are met, assistance shall be reinstated when a completed Review/Recertification Eligibility Document, Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), is received by the county office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.

ITEM 18. Amend rule 441—75.52(249A) as follows:
Amend subrule 75.52(1) as follows:

75.52(1) Reviews. Eligibility factors shall be reviewed at least annually for the family medical assistance program and family medical assistance-related programs.

a. A face-to-face interview shall be conducted at least annually at the time of a review for adults using information contained in and verification supplied with Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document.

b. Family medical assistance-related medically needy recertifications shall be conducted using information contained in and verification supplied with Form 470-3118 or 470-3118(S), Medicaid Review.

Amend subrule 75.52(3) as follows:

75.52(3) Forms. Information for the annual face-to-face determination interview shall be submitted on Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document (RRED), with the following exceptions:

a. When the client has completed Form 470-0462 or 470-0466 (Spanish), Public Assistance Health and Financial Support Application, for another purpose, this form may be used as the review document for the semiannual or annual review.

b. Information for recertification of family medical assistance-related medically needy shall be submitted on Form 470-3118 or 470-3118(S), Medicaid Review.

Amend subrule **75.52(4)**, paragraph “b,” introductory paragraph, as follows:

b. The recipient shall complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document (RRED), or Form 470-3118 or 470-3118(S), Medicaid Review, when requested by the department in accordance with these rules. The department shall supply the form to the recipient as needed, or upon request, and shall pay the cost of postage to return the form.

ITEM 19. Amend subrule **170.3(1)**, paragraph “a,” as follows:

a. Application for child care assistance may be made at any county office of the department on Form 470-3624 or 470-3624(S), Child Care Assistance Application.

[Filed Emergency 11/16/05, effective 12/1/05]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4729B

SOIL CONSERVATION DIVISION[27]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby amends Chapter 11,

“Conservation Practices Revolving Loan Fund,” Iowa Administrative Code.

These amendments define the roles and responsibilities of financial partners within the conservation practices revolving loan fund, revise the loan fund allocation process and provide clarification to the existing rules.

These amendments do not contain a waiver provision, but are subject to the Division's general waiver requirements.

In compliance with Iowa Code section 17A.4(2), the Division of Soil Conservation finds that notice and public participation are impracticable because of the immediate need to amend existing rules.

The Division of Soil Conservation finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments shall be waived and these amendments shall be made effective upon filing, as they confer an immediate and maximized benefit to the public by making funds available from the conservation practices revolving loan fund in a timely manner.

The Division of Soil Conservation adopted these amendments on November 16, 2005.

These amendments are also published herein under Notice of Intended Action as **ARC 4728B** to allow public comment.

These amendments became effective on November 16, 2005.

These amendments are intended to implement Iowa Code chapter 161A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Add the following **new** definition in alphabetical order to rule **27—11.20(161A)**:

“Financial partner” means the division's designated bank, mortgage company or governmental agency charged with servicing loans described in this chapter.

ITEM 2. Rescind rule 27—11.21(161A) and adopt in lieu thereof the following **new** rule:

27—11.21(161A) Financial partner. The division may designate or enter into an agreement with a financial partner to assist with servicing loans under this program.

11.21(1) Responsibilities. The financial partner may assist with the following responsibilities:

a. Making determinations regarding an applicant's ability to repay the loan. Making this determination may include evaluating the applicant's net worth or securing other information as deemed necessary.

b. Securing valid liens on real estate on which the conservation practices are applied.

c. Disbursing loan funds and processing loan payments.

d. Collecting application fees for servicing loans. Maximum application fees assessed to the borrower will be 2 percent of the loan plus filing costs.

e. Pursuing delinquent loan payments and collections.

11.21(2) Reserved.

ITEM 3. Rescind rule 27—11.22(161A) and adopt in lieu thereof the following **new** rule.

27—11.22(161A) Allocation of revolving loan funds to soil and water conservation districts. The division shall utilize the following method to allocate program funds to the districts:

SOIL CONSERVATION DIVISION[27](cont'd)

11.22(1) District allocations. Districts shall submit requests identifying valid applications and cost estimates, if any, to the division by February 1 of each year. If the requests submitted by districts fail to exhaust funds available, the division may continue to fund district requests on an individual basis until December 1. The allocation to any district will be the lesser amount of either:

- a. The amount of available funds divided by the number of districts applying for an allocation; or
- b. The amount requested.

11.22(2) Unobligated allocations. Any funds allocated in a fiscal year that the districts have not obligated by March 1 of that fiscal year and any funds that were obligated during the previous year for projects for which construction has not been started by March 1 will be recalled by the division. Recalled funds shall be distributed in accordance with 11.22(1).

11.22(3) Reserve funds. The division shall administer for each program year a reserve fund that shall not exceed \$20,000. The reserve fund will be set aside and used only to meet contingencies that occur in the districts or within the division.

ITEM 4. Amend subrule 11.23(2) as follows:

11.23(2) Ability to repay the loan. The applicant must demonstrate ~~to the satisfaction of the participating financial institution that the applicant can repay the loan.~~ *the ability to repay the loan to the satisfaction of the division and its financial partner.*

ITEM 5. Amend subrules 11.24(1) to 11.24(5) as follows:

11.24(1) Application submitted by landowner. Applicants for loans for soil and water conservation practices shall complete and submit an ~~Application~~ *application* for ~~Financial Incentives financial incentives, Form IP-1,~~ to the district office. ~~Assistance in completing the form is available from technical personnel of the district.~~ *Application forms shall be available at the district office.*

11.24(2) Denial of application by district. Applications for ~~Financial Incentives~~ *financial incentives, Form IP-1,* which are denied by the district shall be retained in the district to the end of the program year. Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied. Application denial as used here refers to those applications which cannot be approved for reasons other than lack of available loan funds.

11.24(3) ~~Initial approval of application by district. Those applications that meet the eligibility requirements of rule 27—10.73(161A) for the Iowa financial incentive program for soil erosion control will be given initial approval by the district.~~ *Reserved.*

11.24(4) Selection of applications for fiscal evaluations. ~~The applications that have received initial approval by the district~~ *Applications received by the district* shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The high-priority applications that can possibly be funded by the district's loan fund allocation will be identified, and the successful applicants will be requested to provide the necessary financial information ~~identified in subrules 11.23(1) and 11.23(2).~~ *as required by the division or the division's financial partner.*

11.24(5) Final approval of application and obligation of funds. Upon receipt of proper financial disclosures on a form prescribed by the division ~~or by the division's financial partner,~~ the district ~~gives~~ *shall give* the application final approval and ~~obligates~~ *obligate* funds for the project in the amount of the project cost estimate identified on the application. Upon obligation of funds, the district shall notify the applicant.

[Filed Emergency 11/16/05, effective 11/16/05]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4724B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 256.7(5), the State Board of Education hereby adopts amendments to Chapter 12, "General Accreditation Standards," Iowa Administrative Code.

The adopted amendments implement statutory language found in Iowa Code section 280.14. They also eliminate possible confusion regarding permanent student records and eliminate a violation of the Americans with Disabilities Act.

Notice of Intended Action was published in the September 28, 2005, Iowa Administrative Bulletin as **ARC 4529B**. A public hearing was held on October 18, 2005, and three written comments were received. Upon review of the comments, the introductory paragraph of subrule 12.4(14) was changed as follows:

"12.4(14) Physical examination. Except as otherwise provided in 281—43.15(285), the local board shall require each employee to file with the local board, after an offer of employment is made and before or within six weeks of the beginning of service, certification of fitness to perform the tasks assigned which shall be in the form of a written report of a physical examination by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, or qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner."

No other changes have been made to the amendments published under Notice of Intended Action.

These amendments reflect statutory provisions. Therefore, a waiver of these amendments or any portion of these amendments would conflict with state law.

These amendments are intended to implement Iowa Code section 280.14.

These amendments will become effective January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule **12.3(4)**, first unnumbered paragraph, as follows:

The permanent office record shall serve as a historical record of official information concerning the student's education. *The permanent office record shall be recorded and maintained under the student's legal name.* At a minimum, the permanent office record should contain evidence of attendance and educational progress, serve as an official transcript, contain other data for use in planning to meet student needs, and provide data for official school and school district reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault or can be maintained and stored electronically with a secure backup file.

ITEM 2. Amend subrule 12.4(4) as follows:

12.4(4) Required administrative personnel. Each board that operates both an elementary school and a secondary school shall employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this requirement by contracting with its area education agency for "superintendency services" as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as *an* elementary principal in that school or school district provided that the superintendent holds the proper licensure/certification but can-

not also serve *or* as a high school principal in that school or school district *provided that the superintendent holds the proper licensure/certification.* For purposes of this subrule, high school means a school which commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code subsection 279.23(4).

ITEM 3. Amend subrule 12.4(14) as follows:

12.4(14) Physical examination. Except as otherwise provided in 281—43.15(285), the local board shall require each employee to file with ~~it~~ *the local board, after an offer of employment is made and before or within six weeks of the beginning of service,* certification of fitness to perform the tasks assigned which shall be in the form of a written report of a physical examination, ~~including a check for tuberculosis,~~ by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, or qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner. ~~A report shall be filed at the beginning of service and at three-year intervals.~~

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic examiners.

ITEM 4. Amend subrule 12.5(5), introductory paragraph, as follows:

12.5(5) High school program, grades 9-12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule ~~12.5(18)~~ *12.5(14)*. The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in 12.5(5)"c"; science, five units; health, one unit; physical education, one unit; fine arts, three units; foreign language, four units; and vocational education, 12 units as specified in 12.5(5)"i."

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[Published 12/7/05]

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ARC 4727B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 17, "Open Enrollment," Iowa Administrative Code.

These amendments implement statutory language passed by the 81st General Assembly in 2005 Iowa Acts, House File 423 and House File 882.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4470B**. A public hearing was held on September 20, 2005. One oral comment on the amendments was received.

In the Notice, new language that describes the specific grounds for appeal and that includes the Board's exercise of

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broad discretion was added to the introductory paragraph of rule 281—17.5(282). That language has been deleted from the introductory paragraph and has instead been incorporated in an amendment to subrule 17.5(2). The introductory paragraph of rule 281—17.5(282) and subrule 17.5(2) now read as follows:

“281—17.5(282) Filing after the March 1 deadline—harassment or serious health condition. A parent/guardian may apply for open enrollment after the filing deadline of March 1 of the school year preceding the school year for which open enrollment is requested if the parent’s/guardian’s child is the victim of repeated acts of harassment or if the child has a serious health condition that the resident district cannot adequately address. If either of these conditions exists, the parent/guardian shall be permitted to apply for open enrollment by sending notification to both the resident and receiving districts.

“17.5(2) A denial by either board of a request made under this rule involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address may be appealed by a parent/guardian to the state board of education pursuant to Iowa Code section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.”

These amendments are intended to implement 2005 Iowa Acts, House File 423 and House File 882.

These amendments will become effective January 11, 2006.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [17.2, 17.3(1) to 17.3(3), 17.4, 17.4(1)“a,” 17.4(5), 17.4(6), 17.5, 17.5(2), 17.7, 17.8(2), 17.8(4)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4470B**, IAB 8/31/05.

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[Published 12/7/05]

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ARC 4726B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 256.7(5), the State Board of Education hereby amends Chapter 77, “Standards for Teacher Intern Preparation Programs,” Iowa Administrative Code.

These amendments implement statutory language found in Iowa Code subsection 272.25(4) and are part of ongoing program approval revisions.

These amendments were published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4471B**. A public hearing was held on September 23, 2005. One written comment was received which resulted in a minor change in the language of subrule 77.12(1), paragraphs “a” and “c.”

These amendments implement Iowa Code subsection 272.25(4).

These amendments will become effective January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend rule **281—77.2(256)** by rescinding the definition of “partnership.”

ITEM 2. Amend rule 281—77.8(256), introductory paragraph, as follows:

281—77.8(256) Governance and resources. As a component of the program, the institution shall develop a partnership *work collaboratively* with the institution and local school district(s) or AEA. ~~The partnership agreement shall clearly delineate the partnership members’ responsibilities and resources to be contributed to the program.~~

ITEM 3. Amend subrule 77.8(1) as follows:

77.8(1) The institution’s responsibilities shall include but not be limited to:

a. Organizing and implementing the screening of prospective teacher interns;

b. Submitting a recommendation by the authorized official of the institution to the BOEE for a teacher intern license. The recommendation from the institution must be submitted to the BOEE upon the teacher intern candidate’s completion of the ~~first 12 semester hours coursework and competencies~~, as outlined in the program content *in subrule 77.12(1)*, and prior to the beginning of the teacher internship year;

c. Supervising the teacher intern during the internship year;

d. Verifying that the teacher intern has successfully completed all required coursework and demonstrated all required competencies in the approved teacher intern program;

e. Submitting a recommendation to the BOEE that the teacher intern candidate is eligible to move from the teacher intern license to the initial license. ~~The recommendation from the institution must be submitted to the BOEE upon the teacher intern candidate’s completion of the second 12 semester hours, as outlined in the program content.~~ ;

f. Preparing data in response to the department’s request for information regarding, but not limited to, the selection of teacher interns and the institution’s teacher intern preparation program, institutional support, local school district or AEA mentors, and local school district or AEA support.

ITEM 4. Amend subrule **77.8(2)** by amending paragraphs “a” and “b” and adopting a **new** unnumbered paragraph as follows:

a. Offering employment to an individual who has been evaluated by a college or university ~~for eligibility in and is eligible for or accepted in~~ the approved teacher intern preparation program;

b. Participating in a ~~state-approved~~ mentoring and induction program;

Mentors serve the role of coaching, guiding, and providing feedback to the intern. This relationship is not a supervisory situation and evaluation is not part of this model.

ITEM 5. Amend subrule 77.8(3), introductory paragraph, as follows:

77.8(3) A teacher intern committee, with membership ~~from the partnership~~ including, but not limited to, a program director from the institution, teacher education faculty, and ~~7-12 school principals~~ *district personnel*, shall design the teacher intern preparation program.

ITEM 6. Amend subrule 77.11(1), introductory paragraph, as follows:

77.11(1) Representatives from ~~members of the partnership~~ *the teacher intern committee* shall be actively involved in the identification of criteria for selecting teacher intern

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candidates. Representatives from ~~members of the partnership~~ *the teacher intern committee* shall be actively involved in the screening, interviewing and selection of teacher intern candidates.

ITEM 7. Amend subrule **77.11(2)** by adopting **new** paragraph **“g”** as follows:

g. Verification that the prospective candidate has successfully passed a basic skills test at the level approved by the teacher education institution.

ITEM 8. Amend subrule **77.12(1)**, paragraphs **“a”** and **“c,”** introductory paragraphs, as follows:

a. ~~A minimum of 12 semester hours of introductory content Coursework and competencies equivalent to a minimum of 12 semester hours~~ specified by the board of educational examiners to be completed prior to the beginning of the ~~academic year of the candidate's~~ initial employment as a teacher intern. ~~This introductory content~~ *The coursework and competencies* shall include, but not be limited to:

c. ~~A minimum of 12 semester hours of concluding content Coursework and competencies equivalent to a minimum of 12 semester hours~~ specified by the BOEE to be completed prior to the recommendation for an initial teaching license. ~~This content~~ *The coursework and competencies* shall include but not be limited to:

ITEM 9. Amend subrule 77.13(4) as follows:

77.13(4) The program shall coordinate support between the teacher intern candidate's local district mentor and program supervisor. *In some cases, the institution may wish to hire its own on-site cooperating teacher to serve as a second mentor who could also provide evaluative feedback to the institution.*

ITEM 10. Amend subrule 77.14(2) as follows:

77.14(2) The program shall utilize a coherent, sequential assessment system for individual teacher intern candidates. The assessment system shall clearly document candidates' attainment of the unit's and the board of educational examiners' licensure standards by providing evidence via multiple measures of content knowledge, professional and pedagogical knowledge, and effect on student learning and achievement. Whenever possible, this assessment system shall document teacher intern candidates' performance of content specified in 77.12(1)“a”(1) to (7) and 77.12(1)“c”(1) to (5) in the teacher intern candidates' classrooms *and shall document candidates' performance toward meeting the Iowa teaching standards.*

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ARC 4725B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby adopts amendments to Chapter 96, “Local Option Sales and Services Tax for School Infrastructure,” Iowa Administrative Code.

These amendments implement 2005 Iowa Acts, House File 882, section 96. The amendments are intended to imple-

ment Iowa Code section 423E.4, subsection 6, unnumbered paragraph 1, as amended by 2005 Iowa Acts, House File 882, section 96, and reflect legislative intent regarding the requirement for smaller districts to provide a certificate of need to expend funds received from the supplemental school infrastructure amount.

These amendments are identical to those published under Notice of Intended Action as **ARC 4530B** in the Iowa Administrative Bulletin on September 28, 2005. No public hearing was held. Public comment was allowed until October 18, 2005. No comments were received.

These amendments are intended to implement 2005 Iowa Acts, House File 882, section 96.

These amendments will become effective January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend rule **281—96.1(423E)**, definition of “certificate of need,” as follows:

“Certificate of need” means written approval that a school district *that has a certified enrollment of fewer than 250 students in the district or that has a certified enrollment of fewer than 100 students in grades 9-12* submits to the department of education on application forms prepared for that purpose to expend the supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount.

ITEM 2. Amend subrule **96.4(2)**, paragraph **“e,”** as follows:

e. If a school district's enrollment in the current year or any of the five years of projected enrollments is fewer than ~~300-250~~ students or fewer than ~~30-25~~ students for any grade, the school district shall attach a copy of a feasibility study pursuant to Iowa Code subsection 256.9(34) or similar study conducted within the past three years with an explanation of how the study supports the project that is the subject of the application.

ITEM 3. Amend subrule **96.5(4)**, paragraphs **“a”** and **“b,”** as follows:

a. If either the current or any of the five years of projected enrollments for the school district is fewer than ~~300-250~~ students.

b. If either the current or any of the five years of projected enrollments for the school district for each grade to be served in the building that is the subject of the application is fewer than ~~30-25~~ students.

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ARC 4711B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 7, “Appeals and Hearings,” rescinds Chapter 118, “Crisis Child

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Care Providers,” and adopts new Chapter 118, “Child Care Quality Rating System,” Iowa Administrative Code.

These amendments:

- Rescind the rules establishing special licensure and registration classifications for crisis child care providers. Legislative authority for those rules was repealed by 2002 Iowa Acts, chapter 1142, section 29.

- Adopt a new chapter to implement a quality rating system for child care providers, as directed by 2005 Iowa Acts, House File 761, section 20.

- Amend rules on appeals to provide appeal rights for providers applying for a certification of quality rating.

These amendments create five levels of quality ratings for child care centers and preschools and for child development homes. The child care provider must certify that the facility meets the requirements for the level of certification requested. A facility achieves Level 1 by being duly licensed, registered, or approved to operate.

Criteria for Level 2 include completion of a health and safety agreement and owner/director survey from the Healthy Child Care Iowa program in the Department of Public Health and participation in the Child and Adult Care Food Program, if the facility serves meals. A child development home provider must also maintain ChildNet certification and complete a professional development self-assessment and plan. Centers and preschools must provide preservice orientation to all staff, have on duty in each room staff who have completed basic safety training, and have completed a self-assessment.

Certification at Levels 3, 4, and 5 is achieved by earning points in each of several categories: professional development, health and safety, environment, family and community partnerships, and, for centers and preschools, leadership and administration. Environmental ratings are based on nationally recognized environmental rating scales, as administered by nationally certified assessors. Training on the use of environmental rating scales is available from Iowa State University Extension Service. Providers must take training on the use of the scale before requesting an assessment of their facilities.

Providers may appeal the Department’s decision on awarding a rating certificate. Certificates are issued for a period of 24 months. Providers may request a new rating no sooner than 12 months after their previous certificate was issued.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 14, 2005, as **ARC 4511B**. The Department held five public hearings around the state and received written comments from 53 people. In response to these comments, the Department has made the following changes to these amendments:

- Add the following sentence to the definition of “child care nurse consultant” in rule 441—118.1(237A): “The child care nurse consultant is employed by or has a written agreement with the local Title V maternal and child health agency or contracts for service delivery directly through the state-level Title V maternal and child health program administered by the Iowa department of public health, bureau of family health.”

- Add the following definition to rule 441—118.1(237A):

“‘Staff in the classroom’ means staff responsible for care of children in the classroom.”

- Add the child care center Level 1 criteria from paragraph 118.3(1)“a” to the Level 2 criteria in paragraph 118.31(1)“b,” with the exception that a provisional license is not allowable for Level 2, and remove references to Level 1 in the paragraphs 118.3(1)“c,” 118.3(1)“d,” and 118.3(1)“e.”

- Change from 16 to 18 the number of points required in subparagraph 118.3(1)“d”(1) for a child care center to earn a Level 4 rating.

- Change from 22 to 26 the number of points required in subparagraph 118.3(1)“e”(1) for a child care center to earn a Level 5 rating.

- Amend subrule 118.3(2) to allow a child care center to earn a maximum of 12 points in the professional development category instead of 8 points; allow a maximum of 9 points for education and experience instead of 5 points; allow providers to select up to two of the scoring options listed in subparagraphs 118.3(2)“c”(1) through (6); and change the threshold in each subparagraph from “more than 50 percent” to “at least 50 percent.”

- Amend subrule 118.3(4) to allow a child care center to earn a maximum of 11 points in the environment category instead of 9 points and to add two new subparagraphs to paragraph “a” to allow points for a facility self-assessment and improvement plan, parallel to the scoring for child development homes in subrule 118.4(4).

- Amend paragraph 118.3(5)“a” to allow a child care center to earn one point if the director of the facility is a member of a professional organization (not necessarily the facility itself).

- Amend paragraph 118.3(6)“d” to allow a child care center to earn one point if all staff who have direct contact with children have a full orientation within four months of beginning employment with the facility (instead of requiring orientation before staff work alone).

- Amend subrule 118.4(2) to allow a child development home to earn a maximum of six points for professional development (instead of five).

- Amend paragraph 118.4(2)“b” to allow a child development home to earn a maximum of four points for education (instead of three), remove the words “or above” in subparagraph (2) on points awarded for an associate’s degree, and add a new subparagraph (3) to allow four points if the provider has completed a bachelor’s degree in education specific to the age group for whom care is provided.

These amendments do not provide for waivers in specified situations because quality rating is a voluntary system. No provider is required to participate.

The Council on Human Services adopted these amendments on November 9, 2005.

These amendments are intended to implement Iowa Code section 237A.30 as amended by 2005 Iowa Acts, House File 761, section 20.

These amendments shall become effective on February 1, 2006.

The following amendments are adopted.

ITEM 1. Amend rule **441—7.1(17A)**, definition of “aggrieved person,” numbered paragraph “7,” by adding the following **new** bulleted item at the end of the list:

- Whose application for child care quality rating has not been acted upon in a timely fashion, who disagrees with the department’s quality rating decision, or whose certificate of quality rating has been revoked.

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ITEM 2. Rescind 441—Chapter 118 and adopt the following **new** chapter in lieu thereof:

CHAPTER 118
CHILD CARE QUALITY RATING SYSTEM

PREAMBLE

This chapter establishes rules for the child care quality rating system. Participation in the quality rating system is voluntary. The chapter includes application and renewal procedures and standards and criteria for the quality rating system.

441—118.1(237A) Definitions.

“Apprenticeship certificate” means a nationally recognized Child Care Development Specialist Registered Apprenticeship Certificate awarded by the U.S. Department of Labor. The certificate requires two years of full-time employment with on-the-job training and 288 hours (at least 19 credits) of approved, related college education or training.

“Child care facility” means a licensed child care center, a preschool, or a registered child development home.

“Child care nurse consultant” means a registered nurse licensed in the state of Iowa who has completed training using a nationally approved curriculum for health and safety in child care and early education. The child care nurse consultant provides on-site consultation, technical assistance, and training to child care and early education providers regarding health and safety. The child care nurse consultant is employed by or has a written agreement with the local Title V maternal and child health agency or contracts for service delivery directly through the state-level Title V maternal and child health program administered by the Iowa department of public health, bureau of family health.

“Child development associate credential (CDA)” means a credential awarded by the Council for Professional Recognition to individuals working in child care settings who demonstrate proficiency in specific competency standards. The credential requires 120 hours of approved training over the past five years.

“ChildNet certification” means verified completion of the 25-hour ChildNet training series in areas specifically designed for child development home providers and completion of the certification process.

“Eligible applicants” means programs meeting the definition of “child care facility” or programs operating under the authority of an accredited school district or nonpublic school.

“Environment rating scale” means a series of child care program assessment instruments (scales) developed through the auspices of the Frank Porter Graham Child Development Center of the University of North Carolina at Chapel Hill. The scale is the measurement tool used by an assessor during an on-site observation of a child care classroom to evaluate and provide a score to a child care program. Scales must be administered by entities approved by the department of human services or the department’s designee.

“Head Start program performance standards” means the standards that define the services that Head Start programs are required to provide to the children and families they serve. The standards constitute the expectations and requirements that Head Start grantees must meet.

“Iowa quality preschool program standards” means standards developed by the Iowa department of education, based on the ten standards of the National Association for the Education of Young Children accreditation.

“National administrator credential (NAC)” means the 40-hour comprehensive training for child care and education ad-

ministrators and successful completion of the certification process.

“Staff in the classroom” means staff responsible for care of children in the classroom.

441—118.2(237A) Application for quality rating. Eligible applicants shall apply to the department of human services or the department’s designee for a quality rating on Form 470-4229, Application for Quality Rating. Any required supporting documentation must be included as part of the application.

118.2(1) Change in location of facility. Participants must notify the department of human services or the department’s designee and complete a new Form 470-4229, Application for Quality Rating, if the location of the facility changes. The department or the department’s designee shall make a new determination of the appropriate rating.

118.2(2) Renewal. Participants shall renew participation in the quality rating system every 24 months. To request renewal, eligible applicants shall submit Form 470-4229, Application for Quality Rating, and any required supporting documentation.

441—118.3(237A) Rating standards for child care centers and preschools. To participate in the quality rating system, a child care center or preschool shall certify that its facility meets the applicable criteria as defined in subrule 118.3(1).

118.3(1) Criteria. Criteria for each rating level are defined as follows.

a. Level 1. To be rated at Level 1, a facility must either:

(1) Have a full or provisional license from the department of human services with no action pending to revoke or deny the license; or

(2) Operate under the authority of an accredited school district or nonpublic school.

b. Level 2. To be rated at Level 2, a facility must meet the following criteria:

(1) The facility must have a full license from the department of human services with no action pending to revoke or deny the license, or operate under the authority of an accredited school district or nonpublic school.

(2) The facility must complete the Iowa department of public health’s Form HCCI-BPA2006, Child Care Business—Partnership Agreement.

(3) The facility must complete the Iowa department of public health’s provider health and safety questionnaire, Form HCCI-CDOS2006, Child Care Center Director/Owner Survey.

(4) If eligible, the facility must participate in the child and adult care food program (CACFP), unless children are in attendance less than four hours per day and the program does not serve meals.

(5) The facility must have on duty in each room at all times at least one staff member who has completed training in mandatory reporting of child abuse, universal precautions and infectious disease control, cardiopulmonary resuscitation, and first aid as specified in 441—subrule 109.7(1) and subparagraphs 109.7(2)“a”(1) and (2).

(6) The facility must provide basic orientation for all staff before they begin work.

(7) All staff, including the facility’s director, must complete Form 470-4234, Child Care Center Staff Self-Assessment, no more than 12 months before application for quality rating. The director must also complete Form 470-4233, Child Care Center Self-Assessment.

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c. Level 3. To be rated at Level 3, a facility must meet the following criteria in addition to meeting the criteria for Level 2:

(1) The facility must earn a minimum of 10 points from the categories listed in subrules 118.3(2) through 118.3(6).

(2) The facility must earn at least one point from each category.

d. Level 4. To be rated at Level 4, a facility must meet the following criteria in addition to meeting the criteria for Level 2:

(1) The facility must earn a minimum of 18 points from the categories listed in subrules 118.3(2) through 118.3(6).

(2) The facility must earn at least one point from each category.

e. Level 5. To be rated at Level 5, a facility must meet the following criteria in addition to meeting the criteria for Level 2:

(1) The facility must earn a minimum of 26 points from the categories listed in subrules 118.13(2) through 118.13(6).

(2) The facility must earn at least one point from each category.

118.3(2) Professional development. A child care center or preschool may earn a maximum of 12 points in the professional development category. Points are awarded as follows:

a. Credential. Two points are awarded if the facility director:

(1) Has a current national administrator credential; or

(2) Is a school principal licensed by the Iowa board of educational examiners.

b. Related degree. One point is awarded if at least one staff member at the facility has at least a bachelor's degree in education specific to the age group for whom the person provides care.

c. Education and experience. A facility may earn a maximum of nine points for staff education and experience. Programs may select up to two of the following options.

(1) Five points are awarded if at least 50 percent of staff in each classroom have a minimum of a bachelor's degree in education specific to the age group for whom they provide care.

(2) Four points are awarded if at least 50 percent of staff in each classroom have a minimum of an associate's degree in education specific to the age group for whom they provide care.

(3) Three points are awarded if at least 50 percent of staff in each classroom have a minimum of a child development associate credential or apprenticeship certificate.

(4) Two points are awarded if at least 50 percent of staff in each classroom have a minimum of either six college credit hours in education specific to the age group for whom they provide care or have a paraeducator certificate from the Iowa board of educational examiners.

(5) Two points are awarded if at least 50 percent of staff in each classroom have received a minimum of 30 hours of training beyond regulatory requirements in the last 12 months and have at least five years of experience working in a child care facility or a program operating under the authority of an accredited school district or nonpublic school.

(6) One point is awarded if at least 50 percent of staff in each classroom have received a minimum of 15 hours of training beyond regulatory requirements in the last 12 months.

118.3(3) Health and safety. A child care center or preschool may earn a maximum of eight points in the health and safety category. Points are awarded as follows:

a. Injury prevention. A facility may earn a maximum of three points for injury prevention. Points are awarded as follows:

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-IP2006, Injury Prevention Summary Report, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has started the process of making recommended corrections.

(3) Three points are awarded if the child care nurse consultant verifies that the facility has completed all corrections.

b. Child record review. A facility may earn a maximum of two points for child record review. Points are awarded as follows:

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-CRR2006, Child Record Review, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has worked with the child care nurse consultant to refer families to health care providers.

c. Health and safety assessment. A facility may earn a maximum of three points for health and safety assessment. Points are awarded as follows:

(1) One point is awarded if the facility completes the Iowa department of public health's Form HCCI-HSA2006, Health and Safety Assessment, during a visit with the child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the facility has developed a plan of action to correct deficiencies.

(3) Three points are awarded if the child care nurse consultant verifies that the facility has completed all corrections.

118.3(4) Environment. A child care center or preschool may earn a maximum of 11 points in the environment category. Points are awarded as follows:

a. Environment rating scale training and self-assessment.

(1) One point is awarded if the facility director or assistant director completes approved training on using the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale to evaluate and improve the facility before outside evaluation.

(2) One point is awarded if, after completing training on how to use the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale, the facility director or assistant director completes a self-assessment of at least one-third of the facility's classrooms, including at least one classroom in each age group served by the facility using the appropriate environment rating scale.

(3) One point is awarded if, after completing training on how to use the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale, the facility director or assistant director completes Form 470-4288, Child Care Center Improvement Plan, based on the environment rating scale self-assessment. Form 470-4288 must be completed for each room for which a self-assessment was completed.

b. Environment rating scale. A facility may earn a maximum of three points on the environment rating scale. The facility director or assistant director must complete training on the use of one of the environment rating scales before requesting assessment. An assessor approved by the depart-

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ment of human services or the department's designee must perform the environment rating assessment. At least one-third of the facility's classrooms must be assessed, including at least one classroom in each age group served by the facility. Points are awarded as follows:

(1) One point is awarded if the facility receives an average score of 3 on a scale of 7 (with no subscale scores lower than 2) on the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale.

(2) Two points are awarded if the facility receives an average score of 4 on a scale of 7 (with no subscale scores lower than 2) on the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale.

(3) Three points are awarded if the facility receives an average score of 5 on a scale of 7 (with no subscale scores lower than 2) on the infant/toddler environment rating scale, the early childhood environment rating scale, or the school-age care environment rating scale.

c. Iowa quality preschool program standards. A facility may earn a maximum of two points on the Iowa quality preschool program standards. Points are awarded as follows:

(1) One point is awarded if the facility completes training on Iowa quality preschool program standards.

(2) One point is awarded if the facility completes the Iowa quality preschool program standards self-assessment and develops a quality improvement plan.

d. Accreditation. A facility may earn a maximum of three points for accreditation. Points are awarded as follows:

(1) One point is awarded if the facility meets accreditation standards for group or class size from an accrediting body identified in subparagraph (2) that is appropriate to the child care setting.

(2) Three points are awarded if the facility is accredited by the National Association for the Education of Young Children, the National Afterschool Association, or another accrediting body approved by the department of human services or if a Head Start program demonstrates compliance with Head Start program performance standards.

118.3(5) Family and community partnerships. A child care center or preschool may earn a maximum of two points in the family and community partnerships category. Points are awarded as follows:

a. One point is awarded if the facility or the facility director is a member of a professional organization specific to the age group for whom care is provided.

b. One point is awarded if the facility provides orientation for new parents and holds annual conferences with parents.

118.3(6) Leadership and administration. A child care center or preschool may earn a maximum of four points in the leadership and administration category. Points are awarded as follows:

a. One point is awarded if the facility completes yearly written evaluations for all staff.

b. One point is awarded if the facility develops and updates Form 470-4235, Child Care Center Improvement Plan, annually.

c. One point is awarded if all staff complete Form 470-4236, Professional Development Plan.

d. One point is awarded if all staff who have direct contact with children have a full, facility-based orientation within four months of beginning employment with the facility.

441—118.4(237A) Rating criteria for child development homes. To participate in the quality rating system, a child development home provider shall certify that the home meets the applicable criteria as defined in subrule 118.4(1).

118.4(1) Criteria for each rating level.

a. To be rated at Level 1, the home must be a registered child development home.

b. To be rated at Level 2, the home must meet the following criteria in addition to meeting the criterion for Level 1:

(1) The provider completes and maintains ChildNet certification.

(2) The provider participates in the child and adult care food program (CACFP).

(3) The provider completes the Iowa department of public health's Form HCCI-BPA2006, Child Care Business—Partnership Agreement.

(4) The provider completes the Iowa department of public health's provider health and safety questionnaire, Form HCCI-HDOS2006, Home Child Care Center Director/Owner Survey.

(5) The provider completes Form 470-4231, Child Development Home Professional Development Self-Assessment.

(6) The provider completes Form 470-4236, Professional Development Plan.

c. To be rated at Level 3, the home must meet the following criteria in addition to meeting the criteria for Levels 1 and 2:

(1) The home must earn a minimum of seven points from the categories listed in subrules 118.4(2) through 118.4(5).

(2) The home must earn at least one point from each category.

d. To be rated at Level 4, the home must meet the following criteria in addition to meeting the criteria for Levels 1 and 2:

(1) The home must earn a minimum of 12 points from the categories listed in subrules 118.4(2) through 118.4(5).

(2) The home must earn at least one point from each category.

e. To be rated at Level 5, the home must meet the following criteria in addition to meeting the criteria for Levels 1 and 2:

(1) The home must earn a minimum of 16 points from the categories listed in subrules 118.4(2) through 118.4(5).

(2) The home must earn at least one point from each category.

118.4(2) Professional development. A child development home may earn a maximum of six points in the professional development category. Points are awarded as follows:

a. Experience and training. A home may earn a maximum of two points for experience and training. Points are awarded as follows:

(1) One point is awarded if the provider has at least two years of experience working in a child care facility or a program operating under the authority of an accredited school district or nonpublic school and 10 hours of additional training per year beyond regulatory requirements.

(2) Two points are awarded if the provider has at least five years of experience working in a child care facility or a program operating under the authority of an accredited school district or nonpublic school and 20 hours of additional training per year beyond regulatory requirements.

b. Education. A home may earn a maximum of four points for education. Points are awarded as follows:

(1) Two points are awarded if the provider has completed an apprenticeship certificate, child development associate

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credential, or at least nine college credit hours in education specific to the age group for whom care is provided.

(2) Three points are awarded if the provider has completed an associate's degree in education specific to the age group for whom care is provided.

(3) Four points are awarded if the provider has completed a bachelor's degree or higher in education specific to the age group for whom care is provided.

118.4(3) Health and safety. A child development home may earn a maximum of eight points in the health and safety category. Points are awarded as follows:

a. Injury prevention. A home may earn a maximum of three points for injury prevention. Points are awarded as follows:

(1) One point is awarded if the provider completes the Iowa department of public health's Form HCCI-IP2006, Injury Prevention Summary Report, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the provider has started the process of making recommended corrections.

(3) Three points are awarded if the child care nurse consultant verifies that the provider has completed all corrections.

b. Child record review. A home may earn a maximum of two points for child record review. Points are awarded as follows:

(1) One point is awarded if the provider completes the Iowa department of public health's Form HCCI-CRR2006, Child Record Review, during a visit with a child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the provider has worked with the child care nurse consultant to refer families to health care providers.

c. Health and safety assessment. A home may earn a maximum of three points in the health and safety assessment category. Points are awarded as follows:

(1) One point is awarded if the provider completes the Iowa department of public health's Form HCCI-HSA2006, Health and Safety Assessment, during a visit with the child care nurse consultant.

(2) Two points are awarded if the child care nurse consultant verifies that the provider has developed a plan of action to correct deficiencies.

(3) Three points are awarded if the child care nurse consultant verifies that the provider has completed all corrections.

118.4(4) Environment. A child development home may earn a maximum of eight points in the environment category. Points are awarded as follows:

a. Environment rating scale training and self-assessment. A home may earn a maximum of three points for environment rating scale training and self-assessment. Points are awarded as follows:

(1) One point is awarded if the provider completes approved training on how to use the family day care rating scale to assess the child development home environment.

(2) One point is awarded if, after completing training on how to use the family day care rating scale, the provider completes a self-assessment using the family day care rating scale.

(3) One point is awarded if, after completing training on how to use the family day care rating scale, the provider completes Form 470-4232, Child Development Home Improvement Plan, based on the family day care rating scale self-assessment.

b. Environment rating scale. A home may earn a maximum of two points on the environment rating scale. An assessor approved by the department of human services or the department's designee must perform the environment rating assessment. The provider must complete training on the family day care rating scale before requesting assessment. Points are awarded as follows:

(1) One point is awarded if the home receives an average score of 4 on a scale of 7, with no subscale scores lower than 2.

(2) Two points are awarded if the home receives an average score of 5 on a scale of 7, with no subscale scores lower than 2.

c. Accreditation. Three points are awarded if the home is accredited by the National Association for Family Child Care or another accrediting body approved by the department of human services.

118.4(5) Family and community partnerships. A child development home may earn a maximum of two points in the family and community partnerships category. Points are awarded as follows:

a. One point is awarded if the provider is a member of a professional organization specific to the age group for whom care is provided.

b. One point is awarded if the provider offers an orientation for new parents and holds annual conferences with parents.

441—118.5(237A) Award of quality rating.

118.5(1) The facility shall display Form 470-4230, Quality Rating Certificate, in a conspicuous place.

118.5(2) Achievement bonuses may be awarded as funds are available.

118.5(3) Participants may request another quality rating no sooner than 12 months after issuance of a quality rating certificate.

441—118.6(237A) Adverse actions.

118.6(1) An eligible applicant must be notified of the right to appeal the rating decision in accordance with 441—Chapter 7.

118.6(2) A participant's quality rating shall be revoked if the facility no longer meets the definition of "eligible applicants."

118.6(3) Form 470-4230, Quality Rating Certificate, shall be returned to the department of human services if:

- a. The certificate is revoked;
- b. The certificate is not renewed; or
- c. The provider voluntarily withdraws from the program.

These rules are intended to implement Iowa Code section 237A.30 as amended by 2005 Iowa Acts, House File 761, section 20.

[Filed 11/16/05, effective 2/1/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4710B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services adopts new Chapter 66, "Emergency Food Assistance Program," and rescinds Chapter 73, "Commodity Distribution Programs," Iowa Administrative Code.

Chapter 73 currently holds rules for several U.S. Department of Agriculture (USDA) donated foods programs: the Federal Surplus Food Program, the Soup Kitchen Program, and the Institutional Program. The entire contents of the chapter are now obsolete under current federal law and regulation.

A new Chapter 66 is created to establish the rules governing administration of the federal Emergency Food Assistance Program (TEFAP) in Iowa. The Department of Human Services is the agency designated to administer TEFAP. The Department is responsible for receiving, storing, distributing, and accounting for USDA-donated foods under TEFAP. The Department contracts with eligible charitable institutions to receive, store, handle, and distribute USDA-donated foods. The Department is required to give preference to emergency feeding organizations when selecting contractors. Currently all TEFAP contractors are Iowa food banks.

Each contractor serves a designated area and is allocated an amount of the donated foods that Iowa receives that is proportionate to the percentage of the Iowa residents with income at or below 185 percent of the federal poverty level who live in that area. The TEFAP contractor is responsible for distributing commodities to needy individuals or households in the most cost-effective and comprehensive manner possible. TEFAP contractors may subcontract with other eligible recipient agencies for the distribution of commodities.

These rules address the procedures for an organization to become a TEFAP contractor, contract requirements, procedures for distribution of commodities, guidelines for determining eligibility of low-income households, policies and procedures for reimbursement of contractor expenses, procedures for handling losses of commodities, procedures for state monitoring of contractor performance, limitations on a contractor's conducting of unrelated activities, and procedures for handling complaints. The rules represent current TEFAP operations in Iowa and do not change current policies or procedures.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 28, 2005, as **ARC 4545B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to the Notice of Intended Action.

These amendments do not provide for waivers in specified situations because they reflect federal requirements that the Department has no authority to waive.

The Council on Human Services adopted these amendments on November 9, 2005.

These amendments are intended to implement Iowa Code section 234.12.

These amendments shall become effective on January 11, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the

Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [adopt Ch 66; rescind Ch 73] is being omitted. These amendments are identical to those published under Notice as **ARC 4545B**, IAB 9/28/05.

[Filed 11/16/05, effective 1/11/06]
[Published 12/7/05]

[For replacement pages for IAC, see IAC Supplement 12/7/05.]

ARC 4709B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 99, "Support Establishment and Adjustment Services," Iowa Administrative Code.

The amendments to Division I, "Child Support Guidelines," align the Department's rules with recent changes to the Iowa Supreme Court Guidelines (Iowa Court Rules, Chapter 9) for calculating the amount of court-ordered child support. The amendments include rules on what to include for income and deductions from income, how to calculate support for joint and split physical care orders and for extraordinary visitation orders, and the amount of support owed when the noncustodial parent's only income is from Supplemental Security Income.

The amendments to Division VI, "Suspension and Reinstatement of Support," align the Department's rules with Iowa Code section 252B.20 as amended by 2005 Iowa Acts, Senate File 350, sections 2 through 5. Previous rules provided for the Child Support Recovery Unit to assist families in suspending a support obligation when the parents jointly requested the suspension because the parents had reconciled and lived with all of the children or because all of the children lived with the person ordered to pay support.

The Department requested a statutory change to allow the Unit to assist families in suspending a support obligation when some but not all of the children have gone to live with the person ordered to pay support. The amended statute allows suspension of an obligation in these circumstances when there is a "step change" in the order stating what the reduced amount of support should be as the number of children changes. Both parents must still agree to the suspension.

The amended statute also provides for reinstatement of a suspended obligation when the basis for suspension no longer applies to one or more of the children, in accordance with the step change specified in the order, and clarifies that a suspension or reinstatement does not count toward the time limits for requesting modification of an order.

These amendments also remove provisions for denying the request for suspension or reinstatement of an obligation when the request is incomplete. The Unit contacts the parent to complete the request before making a decision on whether suspension or reinstatement criteria are met.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 14, 2005, as **ARC 4512B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to the Notice of Intended Action.

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These amendments do not provide for waivers in specified situations because the amendments remove restrictions and because policies for calculating child support using the guidelines are set by Iowa Court Rules and provisions for suspension and reinstatement are set by statute.

The Council on Human Services adopted these amendments on November 9, 2005.

These amendments are intended to implement 2005 Iowa Acts, Senate File 330, section 40, and Iowa Code section 252B.20 as amended by 2005 Iowa Acts, Senate File 350, sections 2 through 5.

These amendments shall become effective February 1, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 99] is being omitted. These amendments are identical to those published under Notice as **ARC 4512B**, IAB 9/14/05.

[Filed 11/16/05, effective 2/1/06]
[Published 12/7/05]

[For replacement pages for IAC, see IAC Supplement 12/7/05.]

ARC 4708B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6 and 238.16, the Department of Human Services amends Chapter 108, "Licensing and Regulation of Child-Placing Agencies," Chapter 130, "General Provisions," and Chapter 202, "Foster Care Services," Iowa Administrative Code.

These amendments conform rules about foster care services to directives in 2005 legislation. 2005 Iowa Acts, House File 753, amends Iowa Code chapter 232 to require that certain safety-related information concerning a child must:

- Be included in the child's case permanency plan, child in need of assistance social investigation report, or delinquency predispositional report; and
- Be provided to the child's parent, guardian, foster parent, or other person with custody of the child.

"Safety-related information" is defined to include information that indicates whether the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse. There is an exception to the requirement to release the information if the court or the placing agency has determined that the release would be detrimental to the child or to the family with whom the child is living.

2005 Iowa Acts, House File 825, requires the Department to allow an infant's mother to continue to breast feed the infant after the infant is removed from the infant's home when this contact with the mother is in the best interest of the child. If the worker's assessment is that the contact is appropriate, the Department will make a plan with the foster care provider to support the mother's continued access to the child for breastfeeding.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 28, 2005, as **ARC 4532B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to the Notice of Intended Action.

These amendments do not provide for waivers in specified situations because the requirements to evaluate and report safety-related information and to allow breastfeeding when in the child's best interest are set by law.

The Council on Human Services adopted these amendments on November 9, 2005.

These amendments are intended to implement Iowa Code section 234.6 and 238.16, 2005 Iowa Acts, House File 753, and 2005 Iowa Acts, House File 825, section 16, subsection 17.

These amendments shall become effective on January 11, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [108.1, 108.7(6), 108.7(11), 108.7(14), 130.7, 202.1, 202.5(2), 202.6(1), 202.10(4), 202.11(3), 202.12(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 4532B**, IAB 9/28/05.

[Filed 11/16/05, effective 1/11/06]
[Published 12/7/05]

[For replacement pages for IAC, see IAC Supplement 12/7/05.]

ARC 4707B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services amends Chapter 109, "Child Care Centers," Iowa Administrative Code.

These amendments change the personnel requirements for licensed child care centers to require that:

- All center volunteers undergo background checks, regardless of whether the volunteers are counted in the staff ratio; and
- Owners, center personnel, and volunteers not use illegal drugs and not be under the influence of alcohol or of prescription or nonprescription drugs that could impair their ability to function.

These amendments also change the health and safety requirements for licensed centers to:

- Make the requirements for transporting a child congruent with Iowa law regarding the use of child restraints;
- Require regular inspection and maintenance of center vehicles; and
- Limit unrestricted access to children in the center to owners, staff members, substitutes, and volunteers who have a record check and Department approval to be involved with child care. Parents visiting their own children in a child care center shall not have unrestricted access to other children.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 14, 2005, as **ARC 4513B**. The Department received several comments on these amendments, seeking clarification on the application of the record check requirements and the adequacy

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cy of standards on vehicles for transporting children. In response to these comments, the Department has added a definition of "unrestricted access" to rule 441—109.1(237A) as follows:

"Unrestricted access" means that a person has contact with a child alone; has access in providing care, education, guidance, or discipline to a child; or has access to the facility beyond the passage area and room in which the person's child is in care."

Another comment recommended that the Department require child care centers to meet the transportation requirements of the National Transportation Safety Board, which require that all vehicles transporting children be built to school bus standards or to standards for multifunction school activity buses. An ad hoc committee of the State Child Care Advisory Council reviewed the national standards and determined that the transportation safety issue was a broader issue that could not be adequately addressed with a licensing rule. The committee recommended that a coalition of state and local agencies be formed to encourage communities to work together to achieve safer transportation for children.

The State Child Care Advisory Council has recommended these amendments.

The Council on Human Services adopted these amendments on November 9, 2005.

These amendments do not provide for waivers in specified situations. The Department may grant a waiver under the Department's general rule on exceptions at rule 441—1.8(17A,217) when the waiver does not endanger the health, safety and well-being of children.

These amendments are intended to implement Iowa Code chapter 237A.

These amendments shall become effective on January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend rule **441—109.1(237A)** by adopting the following **new** definition in alphabetical order:

"Unrestricted access" means that a person has contact with a child alone; has access in providing care, education, guidance, or discipline to a child; or has access to the facility beyond the passage area and room in which the person's child is in care."

ITEM 2. Amend rule 441—109.6(237A) as follows:

Amend subrule **109.6(5)**, paragraph "**b**," as follows:

b. ~~When a volunteer or substitute is included in the staff ratio count, the~~ The center shall have the volunteer or substitute:

(1) Complete Form 595-1396, DHS Criminal History Record Check, Form B.

(2) Complete Form 470-0643, Request for Child Abuse Information.

(3) Sign a statement indicating the volunteer or substitute has been informed of the volunteer's or substitute's responsibilities as a mandatory reporter.

Adopt **new** subrule 109.6(7) as follows:

109.6(7) Use of controlled substances and medications. All owners, personnel, and volunteers shall be free of the use of illegal drugs and shall not be under the influence of alcohol or of any prescription or nonprescription drug that could impair their ability to function.

ITEM 3. Amend rule 441—109.10(237A) as follows:

Amend subrule 109.10(12) as follows:

109.10(12) Transportation. As outlined in Iowa Code section 321.446, all children transported in a motor vehicle subject to registration ~~and with a gross weight of 10,000~~

~~pounds or less~~, except a school bus, shall be individually secured by a safety belt, safety seat, or harness in accordance with federal motor vehicle safety standards and the manufacturer's instructions.

a. Children under the age of 36 shall be secured *during transit* in a federally approved child restraint system. *Children under 1 year of age and weighing less than 20 pounds shall be secured during transit in a rear-facing child restraint system.*

b. Children under the age of 12 shall not be located in the front seating section of the vehicle.

c. Drivers of vehicles shall possess a valid driver's license and shall not operate a vehicle *while* under the influence of alcohol, illegal drugs, prescription or nonprescription drugs that could impair ~~their~~ *the drivers'* ability to operate a motor vehicle.

d. *Vehicles that are owned or leased by the center shall receive regular maintenance and inspection according to manufacturer-recommended guidelines for vehicle and tire maintenance and inspection.*

Adopt **new** subrule 109.10(16) as follows:

109.10(16) Supervision. The center director and on-site supervisor shall ensure that each staff member, substitute, or volunteer knows the number and names of children assigned to that staff member, substitute, or volunteer for care. Assigned staff, substitutes, and volunteers shall provide careful supervision. Any person in the center who is not an owner, staff member, substitute, or volunteer who has a record check and department approval to be involved with child care shall not have unrestricted access to children for whom that person is not the parent, guardian, or custodian.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4706B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 235B.6, the Department of Human Services amends Chapter 176, "Dependent Adult Abuse," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4326B** to solicit public comments on amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on the same date as **ARC 4311B**. Those amendments added a court or administrative agency making a determination regarding an unemployment compensation claim for a person who is the subject of a dependent adult abuse report to the list of entities with access to dependent adult abuse information, as directed by 2005 Iowa Acts, Senate File 335. A court or administrative agency's need for access occurs when the person seeking unemployment compensation was fired because of a founded adult abuse report.

An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on August 17, 2005, as **ARC 4438B** to solicit comment on provisions that provide access to dependent adult abuse information for employees of the state or local Office of Substitute Decision Maker who

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are responsible for decisions about a subject of an abuse report who lacks the capacity to consent. The Office of Substitute Decision Maker was authorized by 2005 Iowa Acts, House File 825, division V, the "Iowa Substitute Decision Maker Act," subject to available funding. Although no funding was appropriated for the state office, the Iowa Department of Elder Affairs may designate local offices in the planning and service areas.

The Department received one comment on **ARC 4326B** that questioned the wisdom of using reports from the Central Abuse Registry in unemployment proceedings because the report may be subject to appeal and there is a procedure for requesting Department review of a prohibition of employment, and that expressed concerns about the confidentiality of abuse reports released for unemployment compensation hearings. The Department has forwarded these concerns to the Department of Workforce Development. The Department received no comments on **ARC 4438B**.

These amendments do not provide for waivers in specified situations because access to dependent adult abuse information is set by statute, which the Department has no authority to waive. These amendments are identical to those in the Notice of Intended Action and Amended Notice of Intended Action.

The Council on Human Services adopted these amendments on November 9, 2005.

These amendments are intended to implement Iowa Code section 235B.6 as amended by 2005 Iowa Acts, Senate File 335, and 2005 Iowa Acts, House File 825, section 143.

These amendments shall become effective on January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule **176.10(3)**, paragraph "d," by adopting **new** subparagraph (5) as follows:

(5) A court or administrative agency making a determination regarding an unemployment compensation claim for a person who is a subject of a dependent adult abuse report.

ITEM 2. Amend subrule **176.10(3)**, paragraph "e," by adopting **new** subparagraph (11) as follows:

(11) An employee of the state office or a local office of substitute decision maker who is the court-appointed guardian or conservator or person responsible for performing or obtaining services for a dependent adult who is named in a report as a victim of abuse and lacks the capacity to consent.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4730B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 61, "Minimum Physical Standards for Nursing Facilities," Iowa Administrative Code.

The adopted amendment addresses electrical requirements for nursing facilities by permitting the use of wireless

calling systems in lieu of nurse calling stations. The Department routinely receives requests for waivers from the requirements dealing with nurse calling stations, which provide for two-way voice communication and a visible signal in the corridor at a resident's door. Modern technology now makes it possible for nursing facilities to use wireless systems, which use pagers to alert health facilities staff of a resident in need of assistance. The adopted amendment stipulates the minimum requirements for nursing facilities desiring to install wireless systems.

The amendment was initially reviewed by the State Board of Health at its September 14, 2005, meeting, and was approved by the Board at its November 9, 2005, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 12, 2005, as **ARC 4580B**. No public comment was received on the amendment. The adopted amendment is identical to the one published under Notice of Intended Action.

This amendment will become effective January 11, 2006.

This amendment is intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendment is adopted.

Amend subrule **61.12(9)** by adding **new** paragraphs "g," "h," "i" and "j" as follows:

g. As an alternative to a hardwired nurse calling station with a visible signal in the corridor at a resident's room, a wireless calling system that provides an acceptable means of identifying the origin or location of a call is acceptable, if the system specifications are first reviewed and approved by the department prior to installation.

h. A wireless calling system shall be connected to an emergency power source to ensure operation during a power outage.

i. Pagers used as part of a wireless calling system shall have a self-diagnostic system to alert the user of a low battery.

j. For wireless calling systems utilizing two-way communication devices, a visible indicator shall be placed in a resident's room to indicate when the system is operable and conversations may be heard.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4720B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 505.8 and 509.13, the Insurance Division hereby amends Chapter 35, "Accident and Health Insurance," Iowa Administrative Code.

These amendments update Chapter 35 to conform to the recently enacted amendment to the Iowa Code, 2005 Iowa Acts, House File 420, creating new Iowa Code section 514C.22 relating to biologically based mental illness coverage. These amendments are required to bring Iowa rules into compliance with the new law.

The main focus of these amendments is to comply with 2005 Iowa Acts, House File 420, which creates new Iowa Code section 514C.22(4), which directs that the Commis-

INSURANCE DIVISION[191](cont'd)

sioner shall, by rule, define the biologically based mental illnesses identified in 2005 Iowa Acts, House File 420, section 1 [new Iowa Code section 514C.22(3)]. The amendments also rescind outdated language in Chapter 35 relating to mental health benefits.

These amendments do not contain a waiver provision. The Iowa Insurance Division (IID) has previously adopted a general waiver provision in 191—Chapter 4.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 4570B** on October 12, 2005. A public hearing on these amendments was held on November 2, 2005. There were no comments received at the hearing. The only comment received was a letter from the Iowa Nurses Association, which agrees that the definitions in the regulation should be taken from the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, but also believes that the amendments are inadequate to address the mental health needs of the citizens of Iowa and very minimally improve the situation for children and adolescents with mental health issues.

The amendments adopted herein differ from the amendments proposed in the Notice of Intended Action in that the manner of citing to the definitions in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders has changed. Proposed subrule 35.3(3) reflected the language in the statute, which states that the covered biologically based mental illnesses would be defined as those illnesses as defined in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, as such definitions may be amended from time to time. In order to avoid an open-ended definition, which would allow the subrule to be amended solely by action of the American Psychiatric Association to amend the Diagnostic and Statistical Manual of Mental Disorders, the subrule has been changed to cite to the current edition of the Diagnostic and Statistical Manual of Mental Disorders and the specific citations for the covered illnesses within that volume. At such time that the American Psychiatric Association publishes a new edition of the Diagnostic and Statistical Manual of Mental Disorders, the subrule will be amended accordingly.

These amendments are intended to implement Iowa Code chapter 514C.

These amendments will become effective January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend rule 191—35.3(509) by adding **new** subrule 35.3(3) as follows:

35.3(3) For purposes of 2005 Iowa Acts, House File 420, section 1, relating to biologically based mental illness coverage in a group policy, contract or plan providing for third-party payment of health, medical, and surgical coverage benefits issued by a carrier or by an organized delivery system, "biologically based mental illness" shall mean the following mental disorders as they are defined under the following diagnostic classes within the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, edition DSM-IV-TR:

a. Schizophrenia. Diagnostic Codes 295.xx and 293.xx, including all specific subtypes of schizophrenia listed under those two diagnostic codes and using an appropriate extension. Schizophrenia also includes diagnostic codes 295.40, 295.70, 297.1, 298.8, 297.3 and 298.9.

b. Bipolar disorders. Diagnostic code 296.xx including all specific subtypes of bipolar disorders listed under that diagnostic code and using an appropriate extension. Bipolar

disorders also includes diagnostic codes 286.89, 301.13, 296.80, 293.83 and 296.90.

c. Major depressive disorders. Diagnostic codes 296.2x and 296.3x including all specific subtypes of major depressive disorders listed under those two diagnostic codes and using an appropriate extension.

d. Schizo-affective disorders. Diagnostic code 295.70.

e. Obsessive-compulsive disorders. Diagnostic code 300.3.

f. Pervasive development disorders. Diagnostic codes 299.00, 299.80 and 299.10.

g. Autistic disorders. Diagnostic code 299.00.

ITEM 2. Rescind and reserve rule **191—35.30(509)**.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4719B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 81, "Fishing Regulations," Iowa Administrative Code.

The amendment prohibits snagging of fish in the Des Moines River below the two dams in Fort Dodge and from the Ventura Grade, Jetty and Bridge in Clear Lake and Ventura Marsh.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4464B**. Public hearings were held on September 21, 2005, and September 22, 2005. There are no changes from the Notice.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, and 481A.76.

This amendment will become effective January 11, 2006. The following amendment is adopted.

Amend subrule **81.2(11)** by adopting the following **new** numbered paragraphs "**9**" to "**11**":

9. Des Moines River from directly below the Hydroelectric Dam (Big Dam) to the Hawkeye Avenue Bridge in Fort Dodge.

10. Des Moines River from directly below the Little Dam to the Union Pacific Railroad Bridge in Fort Dodge.

11. Clear Lake and Ventura Marsh from the Ventura Grade, Jetty and Bridge.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4718B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 86, "Turtles," Iowa Administrative Code.

The amendments remove map turtles from the list of permissive catch, prohibit the harvest of turtle eggs from wild nests and modify the language pertaining to the escape hole on turtle traps to ensure that the escape hole is functional.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4465B**. Public hearings were held on September 20, September 22, September 28, and September 29, 2005. There is one change from the Notice of Intended Action. In subrule 86.1(2), the 3½-inch mesh size restriction has been removed.

These amendments are intended to implement Iowa Code sections 482.1 and 482.11.

These amendments will become effective January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule 86.1(1) as follows:

86.1(1) Permissive catch. It shall be lawful to take common snapping turtles, softshells, and painted turtles. Possession of alligator snapping turtles is not permitted. ~~Map turtles may only be taken from the Mississippi River and connected backwaters. The taking of turtle eggs from wild nests is prohibited.~~

ITEM 2. Amend subrule 86.1(2) as follows:

86.1(2) Methods. The method of taking turtles shall only be by hand, turtle hook, turtle trap, licensed commercial fishing gear in the Mississippi and Missouri Rivers only, and hook-and-line. Turtle traps shall be constructed with no more than one throat or funneling device. The last hoop to the tail-line of turtle traps shall ~~be covered by nylon web having a mesh size not less than 3½ inches square measure, or an~~ *have a functional escape hole provided below the water surface with a minimum diameter in all directions of 7½ inches to allow passage of fish and small turtles.* Barrel- and floating-type turtle traps must have ~~an a functional~~ escape hole below the water surface with a minimum diameter in all directions of 7½ inches.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4717B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby

amends Chapter 87, "Mussel Regulations," Iowa Administrative Code.

The amendment closes the commercial harvest of mussels in the waters of the Mississippi River common with the state of Wisconsin.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4466B**. Public hearings were held on September 28, 2005, and September 29, 2005. There are no changes from the Notice.

This amendment is intended to implement Iowa Code sections 482.1 and 482.12.

This amendment will become effective January 11, 2006. The following amendment is adopted.

Amend subrule 87.1(4) as follows:

87.1(4) Areas. Mussel harvest for commercial purposes shall be limited to the Mississippi River and connected backwaters *common with the state of Illinois*.

[Filed 11/16/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4700B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners hereby amends Chapter 240, "Licensure of Psychologists," Chapter 242, "Discipline for Psychologists," and Chapter 243, "Fees," Iowa Administrative Code.

The amendment in Item 3 rescinds rule 645—243.1(147,154B) and adopts a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and to provide other services for licensees, such as online renewals. The Board prenoticed this rule to provide licensees and the public an opportunity to comment on the proposed rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4460B**. A public hearing was held on September 21, 2005, from 10 to 10:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Commenters noted that subrule 240.12(7), paragraph "b," states that individuals are to submit a written request to place the license on inactive status, which is no longer required. Commenters also noted that subrule 242.2(27) of the discipline rules includes a reference to "lapsed license" which should be removed since there is no longer a lapsed license status. In response to the comments, the Board added Items 1 and 2, which amend these subrules. The Board also corrected the licensure fee in subrule 243.1(1).

These amendments were adopted by the Board of Psychology Examiners on November 7, 2005.

These amendments will become effective January 11, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 154B and 272C.

The following amendments are adopted.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Amend subrule **240.12(7)**, paragraph “b,” as follows:

b. ~~To place the late license on inactive status, the licensee shall submit a written request for inactive status.~~ No continuing education shall be required.

ITEM 2. Amend subrule 242.2(27) as follows:

242.2(27) Representing oneself as a licensed psychologist when one’s license has been suspended or revoked, or when one’s license is ~~lapsed or has been placed~~ on inactive status.

ITEM 3. Rescind rule 645—243.1(147,154B) and adopt the following **new** rule in lieu thereof:

645—243.1(147,154B) License fees. All fees are nonrefundable.

243.1(1) Licensure fee for license to practice psychology is \$120.

243.1(2) Biennial license renewal fee is \$170.

243.1(3) Late fee for failure to renew before expiration is \$60.

243.1(4) Reactivation fee is \$230.

243.1(5) Duplicate or reissued license certificate or wallet card fee is \$20.

243.1(6) Verification of license fee is \$20.

243.1(7) Returned check fee is \$25.

243.1(8) Disciplinary hearing fee is a maximum of \$75.

243.1(9) Processing fee for exemption to licensure is \$60.

243.1(10) Certification fee for a health service provider is \$60.

243.1(11) Biennial renewal fee for certification as a certified health service provider in psychology is \$60.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C.

[Filed 11/9/05, effective 1/11/06]

[Published 12/7/05]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4703B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby amends Chapter 283, “Discipline for Social Workers,” and Chapter 284, “Fees,” Iowa Administrative Code.

The amendment in Item 2 rescinds rule 645—284.1(147, 154C) and adopts a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and to provide other services for licensees, such as online renewals. The Board prenoticed this rule to provide licensees and the public an opportunity to comment on the proposed rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4450B**. A public hearing was held on September 21, 2005, from 10:30 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Commenters opposed the fee changes since the Board does not receive back from the general fund 100 percent of the licensure fees that are collected. The commenters indicated that the discrepancy between the amount

of the licensure fees collected and the amount returned from the general fund amounts to a tax on the licensees. The Board discussed these public comments; however, the Board noted that the Division would be working with the legislature in the next legislative session to try to change the funding allocation to match the fees collected. Commenters also pointed out that subrule 283.2(26) of the discipline rules includes a reference to “lapsed license” which should be removed since there is no longer a lapsed license status. The Board added Item 1, which amends this subrule.

These amendments are intended to implement Iowa Code chapters 21, 147, 154C and 272C.

These amendments were adopted by the Board of Social Work Examiners on November 14, 2005.

These amendments will become effective January 11, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule 283.2(26) as follows:

283.2(26) Representing oneself as a licensed social worker when one’s license has been suspended or revoked, or when one’s license is ~~lapsed or has been placed~~ on inactive status.

ITEM 2. Rescind rule 645—284.1(147,154C) and adopt the following **new** rule in lieu thereof:

645—284.1(147,154C) License fees. All fees are nonrefundable.

284.1(1) Licensure fee for license to practice social work is \$120.

284.1(2) Biennial license renewal fee for a license at the bachelor’s level is \$72 each biennium; for the master’s level, \$120 each biennium; and independent level, \$144 each biennium.

284.1(3) Late fee for failure to renew before expiration is \$60.

284.1(4) Reactivation fee for the bachelor’s level is \$132 each biennium; for the master’s level, \$180 each biennium; and independent level, \$204 each biennium.

284.1(5) Duplicate or reissued license certificate or wallet card fee is \$20.

284.1(6) Verification of license fee is \$20.

284.1(7) Returned check fee is \$25.

284.1(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

[Filed 11/15/05, effective 1/11/06]

[Published 12/7/05]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4705B

RAILWAY FINANCE AUTHORITY[765]

Adopted and Filed

Pursuant to the authority of Iowa Code section 327I.7, the Iowa Railway Finance Authority hereby adopts new Chapter 5, “Railroad Revolving Loan and Grant Fund Program,” Iowa Administrative Code.

RAILWAY FINANCE AUTHORITY[765](cont'd)

Notice of Intended Action for these rules was published in the September 28, 2005, Iowa Administrative Bulletin as **ARC 4523B**.

Iowa Code section 327H.20A as amended by 2005 Iowa Acts, House File 875, section 31, establishes a railroad revolving loan and grant fund under the control of the Iowa Railway Finance Authority. These rules contain requirements and procedures for administration of loans and grants from the fund.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may submit a petition for a waiver using the procedures in 761—Chapter 11.

One change was made from the Notice of Intended Action. In paragraph 5.10(1)"a," the following sentence was deleted: "There is no prescribed application form."

These rules are intended to implement Iowa Code section 327H.20A as amended by 2005 Iowa Acts, House File 875, section 31, and section 327I.8 as amended by 2005 Iowa Acts, House File 875, section 33.

These rules will become effective January 11, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 5] is being omitted. These rules are identical to those published under Notice as **ARC 4523B**, IAB 9/28/05.

[Filed 11/15/05, effective 1/11/06]
[Published 12/7/05]

[For replacement pages for IAC, see IAC Supplement 12/7/05.]

ARC 4697B**REAL ESTATE COMMISSION[193E]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18 and chapter 558A, the Real Estate Commission hereby amends Chapter 14, "Seller Property Condition Disclosure," Iowa Administrative Code.

The amendment to subrule 14.1(6) adds to the Residential Property Seller Disclosure Statement new numbered item "16," which requires the disclosure of restrictive covenants. Existing numbered items "16" to "19" are not amended but will be renumbered as "17" to "20."

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 4451B** on August 31, 2005. A public hearing was held on September 20, 2005. No one attended the hearing. One written comment was received. This amendment is identical to that published under Notice of Intended Action.

The Real Estate Commission adopted this amendment on November 3, 2005.

This amendment will become effective January 11, 2006.

This amendment is intended to implement Iowa Code sections 543B.9 and 543B.18 and chapter 558A.

The following amendment is adopted.

Amend subrule **14.1(6)**, Residential Property Seller Disclosure Statement, by renumbering numbered items "**16**" to "**19**" as "**17**" to "**20**" and adopting **new** numbered item "**16**" as follows:

16. Covenants: Is the property subject to restrictive covenants? Yes [] No []

If yes, attach a copy or state where a true, current copy of the covenants can be obtained: _____

[Filed 11/7/05, effective 1/11/06]

[Published 12/7/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/7/05.

ARC 4713B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421B.11, 424.1, 452A.59, 452A.76, 453A.25 and 453A.49, the Department of Revenue hereby adopts amendments to Chapter 37, "Underground Storage Tank Rules Incorporated by Reference," Chapter 67, "Administration," Chapter 68, "Motor Fuel and Undyed Special Fuel," Chapter 69, "Liquefied Petroleum Gas—Compressed Natural Gas," Chapter 81, "Administration," Chapter 83, "Tobacco Tax," Chapter 84, "Unfair Cigarette Sales," and Chapter 85, "Tobacco Master Settlement Agreement," Iowa Administrative Code.

These amendments are intended primarily to implement legislation enacted in 2005 Iowa Acts, Senate File 413, and House Files 216, 339, and 868, and to make clarifying and technical corrections.

Notice of Intended Action was published in IAB Vol. XXVIII, No. 8, p. 578, on October 12, 2005, as **ARC 4576B**.

The following changes have been made to the amendments published under Notice of Intended Action:

In the introductory paragraph of rule 67.6(452A), the date in the next to last sentence is changed from April 30, 2006, to July 1, 2006, and the word "terminals" is inserted between the words "importers" and "and" in the last sentence. The paragraph now reads as follows:

"701—67.6(452A) Timely filing of returns, reports, remittances, applications, or requests. The returns, reports, remittances, applications, or requests required under Iowa Code chapter 452A shall be deemed filed within the required time if (1) postpaid, (2) properly addressed, and (3) post-marked on or before midnight of the day on which due and payable. Any return that is not signed and any return which does not contain substantially all of the pertinent information is not considered "filed" until such time as the taxpayer signs or supplies the information to the department. *Miller Oil Company v. Abrahamson*, 252 Iowa 1058, 109 N.W.2d 610 (1961), *Severs v. Abrahamson*, 255 Iowa 979, 124 N.W.2d 150 (1963). The filing of a return within the period prescribed by law and payment of the tax required to be shown thereon are simultaneous acts, unless remittance is required to be transmitted electronically; and if either condition is not met, a

REVENUE DEPARTMENT[701](cont'd)

penalty will be assessed. Remittances transmitted electronically are considered to have been made on the date the remittance is added to the bank account designated by the treasurer of the state of Iowa. If the final filing date falls on a Saturday, Sunday, or legal holiday, the next secular or business day is the final filing date. The director may require by rule that reports and returns be filed by electronic transmission. Effective for returns due after July 1, 2006, all licensees must file returns by electronic transmission. All suppliers, restricted suppliers, importers, terminals, and blenders with at least 100,000 gallons of product on their return must also file the schedules which support the return by electronic transmission."

These amendments will become effective January 11, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 424 as amended by 2005 Iowa Acts, Senate File 413; chapter 452A as amended by 2005 Iowa Acts, House Files 216 and 868; and chapter 453A as amended by 2005 Iowa Acts, House File 339.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [37.1, 67.1, 67.6, 68.2, 68.4(1), 68.8, 69.2, 81.1, 83.12 to 83.17, 84.2, 85.1, 85.3, 85.6] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4576B**, IAB 10/12/05.

[Filed 11/16/05, effective 1/11/06]
[Published 12/7/05]

[For replacement pages for IAC, see IAC Supplement 12/7/05.]

ARC 4714B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of 2005 Iowa Code sections 422.68(1) and 423.42(1), the Department of Revenue hereby amends Chapter 211, "Definitions," and adopts new Chapter 212, "Elements Included in and Excluded from a Taxable Sale and Sales Price," Chapter 213, "Miscellaneous Taxable Sales," Chapter 214, "Miscellaneous Nontaxable Transactions," Chapter 225, "Resale and Processing Exemptions Primarily of Benefit to Retailers," and Chapter 230, "Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII, No. 8, p. 581, on October 12, 2005, as **ARC 4573B**.

These new chapters are intended to implement 2005 Iowa Code chapter 423, otherwise known as the Streamlined Sales and Use Tax Act. The newly drafted rules are intended to accomplish three things: (1) to explain the changes to Iowa sales and use tax law made by the Streamlined Sales and Use Tax Act; (2) to preserve the existing interpretation of portions of Iowa sales and use tax law which the Streamlined Sales and Use Tax Act does not change; and (3) to exclude from the new rules as many references as possible to sales and use tax law as it existed prior to July 1, 2004, the effective date of the Streamlined Sales and Use Tax Act. Additionally, rule

701—230.5(423) is intended to correct an inaccurate definition of the phrase "inert gas."

The following two changes have been made to the amendments as published under Notice of Intended Action:

In rule 701—213.12(423), the catchwords have been changed from "Mortgages and trustees" to "Creditors and trustees," and the words "a chattel" in the first sentence of the rule have been changed to "any piece of chattel paper." The catchwords and first sentence of rule 701—213.12(423) now read as follows:

"701—213.12(423) Creditors and trustees. Pursuant to the provisions of any piece of chattel paper or any other document evidencing a creditor's interest in tangible personal property, the sales price from the sale of tangible personal property at a public auction shall be taxable even if the sale is made by virtue of a court decree of foreclosure by an officer appointed by the court for that purpose."

These amendments will become effective January 11, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2005 Iowa Code chapter 423.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 211.1; adopt Chs 212 to 214, 225, 230] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4573B**, IAB 10/12/05.

[Filed 11/16/05, effective 1/11/06]
[Published 12/7/05]

[For replacement pages for IAC, see IAC Supplement 12/7/05.]

ARC 4698B**STATE PUBLIC DEFENDER[493]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender amends Chapter 12, "Claims for Indigent Defense Services," Iowa Administrative Code.

This amendment increases the reimbursement rate for automobile travel for court-appointed attorneys from 24 cents per mile to 30 cents per mile.

This amendment was Adopted and Filed Emergency and published in the September 28, 2005, Iowa Administrative Bulletin as **ARC 4539B**. Notice of Intended Action to solicit public comment was published simultaneously as **ARC 4540B**.

A public hearing was held and comments were received from a representative of the Iowa State Bar Association. These comments favored of an increase but suggested that the increase be greater.

This amendment, adopted by the State Public Defender on November 8, 2005, is identical to the amendment contained in the Notice of Intended Action.

This amendment will become effective January 11, 2006, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code chapters 13B and 815.

STATE PUBLIC DEFENDER[493](cont'd)

The following amendment is adopted.

Amend subrule **12.8(1)**, paragraph “**a**,” as follows:

a. Mileage for automobile travel at the rate of ~~24~~ 30 cents per mile. The number of miles driven must be listed in the itemization of services ~~or~~ *and* on the claim form. Other

forms of transportation costs incurred by the attorney will be reimbursed with prior approval from the court.

[Filed 11/7/05, effective 1/11/06]

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